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# AGENDA

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**Ordinary Meeting of Council**

**Tuesday 22 April 2014**

6.00pm

City of Albany Council Chambers

**CITY OF ALBANY  
COMMUNITY STRATEGIC PLAN (ALBANY 2023)**

**VISION**

Western Australia's most sought after and unique regional city to live, work and visit.

**VALUES**

All Councillors, Staff and Volunteers at the City of Albany will be...

**Focused: on community outcomes**

This means we will listen and pay attention to our community. We will consult widely and set clear direction for action. We will do what we say we will do to ensure that if it's good for Albany, we get it done.

**United: by working and learning together**

This means we will work as a team, sharing knowledge and skills. We will build strong relationships internally and externally through effective communication. We will support people to help them reach their full potential by encouraging loyalty, trust, innovation and high performance.

**Accountable: for our actions**

This means we will act professionally using resources responsibly; (people, skills and physical assets as well as money). We will be fair and consistent when allocating these resources and look for opportunities to work jointly with other directorates and with our partners. We will commit to a culture of continuous improvement.

**Proud: of our people and our community**

This means we will earn respect and build trust between ourselves, and the residents of Albany through the honesty of what we say and do and in what we achieve together. We will be transparent in our decision making and committed to serving the diverse needs of the community while recognising we can't be all things to all people.

ORDINARY COUNCIL MEETING  
AGENDA –22/04/2014  
\*\* REFER DISCLAIMER \*\*

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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.”*

**3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE**

**Mayor**

Mayor D Wellington

**Councillors:**

Breaksea Ward

V Calleja JP

Breaksea Ward

R Hammond

Frederickstown Ward

C Dowling

Frederickstown Ward

G Stocks

Kalgan Ward

B Hollingworth

Kalgan Ward

J Price

Vancouver Ward

S Bowles

Vancouver Ward

N Williams

West Ward

G Gregson

West Ward

A Goode JP

Yakamia Ward

R Sutton

Yakamia Ward

A Hortin JP

**Staff:**

Chief Executive Officer

G Foster

Deputy Chief Executive Officer

G Adams

Executive Director Community  
Services

C Woods

Manager Planning Services

J Van der Mescht

Executive Director Works and  
Services

M Thomson

Minutes

J Williamson

**Apologies:**

Executive Director Planning and  
Development Services

D Putland

ORDINARY COUNCIL MEETING  
AGENDA –22/04/2014  
\*\* REFER DISCLAIMER \*\*

**4. DISCLOSURES OF INTEREST**

<b>Name</b>	<b>Committee/Report Item Number</b>	<b>Nature of Interest</b>
Mayor Wellington	ED014	<b>Financial.</b> Mayor Wellington is a retailer in the City.
Councillor Hollingworth	WS031	<b>Impartiality.</b> Councillor Hollingworth is Chairman of the Board of Management of South Coast Natural Resource Management.

**5. REPORTS OF MEMBERS**

**6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

**7. PUBLIC QUESTION TIME**

**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 25 March 2014, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**11. PRESENTATIONS**

**12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS**

**ED014: TEMPORARY/SHORT TERM EXTENDED TRADING HOURS  
POLICY**

**Proponent** : City of Albany  
**Attachments** : ACCI letter requesting temporary extended trading hours.  
Current Council Policy – Temporary/Short Term Extended  
Trading Hours  
**Appendices** : Nil  
**Responsible Officer(s):** : Executive Director Community Services (C Woods)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This strategy directly relates to the following elements from the Community Strategic Plan – Albany 2023 and the Corporate Business Plan 2013-2017.
  - a. **Key Theme: 1.** Smart Prosperous and Growing.
  - b. **Strategic Objective 1.2** To strengthen our region's economic base.  
**Strategic Objective 1.3** To develop and promote Albany as a unique and sought after destination.
  - c. **Strategic Initiative 1.2.1** City Centre revitalisation resulting in increased activity.  
**Strategic Initiative 1.3.2.** Tourism Destination and increase in visitor numbers.

**In Brief:**

2. Council to consider slight changes to the current City of Albany's Temporary/Short Term Extended Trading Hours Policy (adopted September 2013) in order to allow City officers to apply for extended retail trading for the Anzac October/November 2014 Commemoration period.
3. As no quorum was achieved at the Economic Development Committee for this Report Item, this report is now referred to full Council for discussion.

## RECOMMENDATION

**ED014: RESPONSIBLE OFFICER RECOMMENDATION  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT Council APPROVE the City's Temporary/Short Term Extended Trading Hours Policy with the following amendments:**

***“During peak and special circumstance times the City of Albany will adhere to the following retail trading hours being;***

- i. 8am – 9pm Monday, Tuesday, Wednesday, Thursday and Friday.***
- ii. 8am – 5pm Saturday***
- iii. 10am – 5pm Sunday***
- iv. 10am – 5pm Public holidays***
- v. CLOSED Christmas Day, Good Friday and ANZAC Day.***

***In special circumstances, the City of Albany will apply to the Minister for Extended Trading Hours at the discretion of the Chief Executive Officer.”***

## BACKGROUND

4. Council approved the updating of the City of Albany's Temporary/Short Term Extended Trading Hours Policy in September 2013 (copy attached).
5. The Albany Chamber of Commerce and Industry (ACCI) have requested Council consider applying for an extended retail trading application for the Anzac October/November 2014 Commemoration period. Copy of letter attached.
6. The ACCI's request for opening hours on Sundays and Public Holidays over this period is outside the definition of peak and special circumstances times as defined in the current policy.
7. The ACCI reports that retail membership have requested trading opening hours be amended to 10am rather than the current 11am on Sundays and Public Holidays.
8. By altering the City's policy opening hours on Sundays and Public Holidays from 11am to 10am the City policy will align with the wishes of the ACCI membership.
9. By altering the policy, City officers can then apply to the Department of Commerce using the "special circumstances" provision in policy without Council having to consider the full application for the Anzac October-November Commemorative period.



10. There are two types of adjustment applications that can be applied for by non metropolitan local government authorities;
  - b. “Temporary/Short Term Adjustments” and
  - c. “Permanent/Long Term Adjustments”.
11. This policy is only concerned with Temporary/Short Term Adjustments.
12. Permanent/long term adjustments require substantial consultation and support from local trader organisations, tourism interests, members of State Parliament and the community. This policy does not apply to Permanent/Long Term Adjustments. The City of Albany has previously investigated the support for permanent/long term adjustments however this proved to be highly divisive within the key stakeholder groups and community with no clear mandate for permanent change achieved.
13. In the absence of this, the City is required to apply for temporary/short term adjustments if extended retail trading is required for identified periods such as popular holidays and when Albany hosts large events such as the Anzac October/November 2014 Commemorative events.

## DISCUSSION

14. The proposed changes to the Council policy include:
  - d. Altering the opening hour times during Peak and Special Circumstances periods for Sundays and Public Holidays from 11am to 10am.
15. The revised Policy statement would be revised to;

*“During peak and special circumstance times the City of Albany will adhere to the following retail trading hours being;*

  - i. *8am – 9pm Monday, Tuesday, Wednesday, Thursday and Friday.*
  - ii. *8am – 5pm Saturday*
  - iii. *10am – 5pm Sunday*
  - iv. *10am – 5pm Public holidays*
  - v. *CLOSED Christmas Day, Good Friday and ANZAC Day.*

*In special circumstances, the City of Albany will apply to the Minister for Extended Trading Hours at the discretion of the Chief Executive Officer or in the absence of the CEO, the Deputy CEO.*

*Extended Trading Hours may apply on other occasions as determined by Council, contingent on the approval of the Minister. For example, retailers remain closed on ANZAC Day in the Perth area however the City of Albany may consider the seeking of approval for opening on this day.”*
16. The proposed changes of opening at 10am on Sundays and Public Holidays reflect the wishes of the retail membership of the Albany Chamber of Commerce and Industry Inc.
17. Clearly defining the Peak and Special Circumstance periods provides consistency to local retail traders, local community, visitors, and enables more efficient planning and approval processes.
18. The policy would be reviewed by the Chief Executive Officer on an annual basis.

19. Once approved the decision to open remains the choice of the individual retailer and businesses need to look to their own situation to make that decision. The *Commercial Tenancy (Retail Shops) Agreements Act 1985* protects retail tenants from being forced to open on Sundays. These same laws ensure commercial tenants can only be charged operating expenses for Sundays if they open on Sundays.

### GOVERNMENT & PUBLIC CONSULTATION

20. The Albany Chamber of Commerce and Industry Inc is a representative of the affected segment of the population and supports the recommended changes to the current policy.
21. If the motion is approved by a clear majority of Council, The City of Albany will apply to the Department of Commerce (Consumer Protection) for a temporary/short term adjustment to local trading hours for peak and special circumstance periods as required including the Anzac October/November 2014 commemoration period.

### STATUTORY IMPLICATIONS

22. Non-metropolitan Local Government may apply to the Department of Commerce (Consumer Protection) to extend the trading hours for local general retail shops beyond those stipulated in the *Retail Trading Hours Act 1987*.

### POLICY IMPLICATIONS

23. If the motion is approved by a clear majority of Council, the current Council policy for Extended Trading Hours will be replaced with the new policy.

### RISK IDENTIFICATION & MITIGATION

24. The risk identification and categorisation relies on the City's [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><i>Without the changes the policy will not reflect the trading hours as requested by the ACCI.</i></p> <p><i>The ACCI may claim the policy is not reflective of the wishes of its membership and cause reputational risk to the City.</i></p>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<i>City to approve the requested changes which are only considered slight variations to the current policy.</i>

### FINANCIAL IMPLICATIONS

25. Retailers opening on these days may gain significant economic benefit as it is anticipated there will be a greater number of visitors in Albany over Christmas, Easter, long weekends, public holiday periods and from major events.

**LEGAL IMPLICATIONS**

26. Extended trading hour approvals lie within Council's legal discretion.

**ENVIRONMENTAL CONSIDERATIONS**

27. Nil

**ALTERNATE OPTIONS**

28. Council can decline or modify the policy.

**SUMMARY CONCLUSION**

29. The adoption of the new policy will reflect the wishes of the local ACCI retail membership.

30. Once approved, City officers will use the special circumstances provision within the policy to apply to the Department of Commerce (Consumer Protection) for temporary extended trading over the Anzac October/November 2014 Commemoration period.

<b>Consulted References</b>	:	<i>Retail Trading Hours Act 1987</i> <i>Commercial Tenancy (Retail Shops) Agreements Act 1985</i>
<b>File Number (Name of Ward)</b>	:	ED.INR.6 (All Wards)
<b>Previous Reference</b>	:	Nil

**CSF068: FINANCIAL ACTIVITY STATEMENT – FEBRUARY 2014**

**Appendices** : Financial Activity Statement  
**Responsible Officer** : Deputy Chief Executive Officer (G Adams)

**Responsible Officer's Signature:**



**CSF068: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council RECEIVE the Financial Activity Statement for the period ending 28 February 2014.**

**CSF068: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR GREGSON  
SECONDED: MAYOR WELLINGTON**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 11-0**

**CSF068: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council RECEIVE the Financial Activity Statement for the period ending 28 February 2014.**

**BACKGROUND**

1. The Statement of Financial Activity for the period ending 28 February 2014 has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Activity, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

**DISCUSSION**

3. In accordance with section 34(1) of the *Local Government (Financial Management) Regulations 1996*, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
4. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide elected members with a greater insight in relation to the ongoing financial performance of the local government.

5. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. Variations in excess of \$50,000 are reported to Council.
6. These financial statements are still subject to further yearend adjustments and have not been audited by the appointed auditor.

*“Please note 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**

7. Section 34 of the *Local Government (Financial Management) Regulations 1996* provides:
  - I. A local government is to prepare each month a statement of financial activity reporting on the source and application of funds, as set out in the annual budget under regulation 22 (1)(d), for that 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);
    - b. budget estimates to the end of the month to which the statement relates;
    - c. actual amounts of expenditure, revenue and income to the end of the month to which the statement relate
    - 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 month to which the statement relates.
  - II. Each statement of financial activity is to be accompanied by documents containing –
    - a. an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
    - b. an explanation of each of the material variances referred to in sub regulation (1)(d); and
    - c. such other supporting information as is considered relevant by the local government.
  - III. The information in a statement of financial activity may be shown –
    - a. according to nature and type classification;
    - b. by program; or
    - c. by business unit
  - IV. A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be –
    - a. presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
    - b. recorded in the minutes of the meeting at which it is presented.

### **FINANCIAL IMPLICATIONS**

8. Expenditure for the period ending 28 February 2014 has been incurred in accordance with the 2013/14 proposed budget parameters. Details of any budget variation in excess of \$50,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

**POLICY IMPLICATIONS**

9. The City's 2013/14 Annual Budget provides a set of parameters that guides the City's financial practices.
10. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

<b>File Number (Name of Ward)</b>	FM.FIR.2 - All Wards
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**CSF069: LIST OF ACCOUNTS FOR PAYMENT – MARCH 2014**

**File Number (Name of Ward)** : FM.FIR.2 - All Wards  
**Appendices** : List of Accounts for Payment  
**Responsible Officer** : Deputy Chief Executive Officer (G Adams)

**Responsible Officer's Signature:**



**CSF069: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council RECEIVE the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 March 2014 totalling \$6,029,359.37.**

**CSF069: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR HORTIN  
SECONDED: COUNCILLOR GOODE**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 11-0**

**CSF069: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council RECEIVE the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 March 2014 totalling \$6,029,359.37.**

**BACKGROUND**

1. 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.

**DISCUSSION**

2. The table below summarises the payments drawn from the municipal fund for the period ending 15 March 2014. Further details of the accounts authorised for payment by the Chief Executive Officer is included in the Attachment to this report.

**Municipal Fund**

Trust	\$57,757.00
Credit Cards	\$18,674.47
Payroll	\$1,052,430.61
Cheques	\$66,444.67
Electronic Funds Transfer	\$4,834,052.62
<b>TOTAL</b>	<b><u>\$6,029,359.37</u></b>

3. As at 15 March 2014, the total outstanding creditors, stands at **\$1,339,779.26** and made up follows:

Current	\$808,427.14
30 Days	\$527,332.48
60 Days	\$4,522.04
90 Days	-\$492.40
<b>TOTAL</b>	<b>\$1,339,779.26</b>

4. **Cancelled cheques:** - .29625 – incorrect address supplied replaced with 29641, 29626 - incorrect amount replaced with 29681, 29695, 29693 & 29694 - trust payments cancelled in error replaced with 27904, 29705 & 29706.

### **STATUTORY IMPLICATIONS**

5. 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.
6. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.
7. 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.

### **FINANCIAL IMPLICATIONS**

8. Expenditure for the period to 15 March 2014 has been incurred in accordance with the 2013/2014 budget parameters.

### **POLICY IMPLICATIONS**

9. The City's 2013/2014 Annual Budget provides a set of parameters that guides the City's financial practices.

### **SUMMARY CONCLUSION**

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

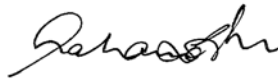
<b>File Number (Name of Ward)</b>	FM.FIR.2 - All Wards
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**CSF070: DELEGATED AUTHORITY REPORTS**

**Attachments** : Common Seal and Executed Document Report  
**Responsible Officer** : Chief Executive Officer (G Foster)

**Responsible Officers Signature:**



**CSF070: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council RECEIVE the Delegated Authority Reports up until 15 March 2014:**

- **Common Seal and Executed Document Report.**

CSF070: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON  
SECONDED: COUNCILLOR BOWLES

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CSF070: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Delegated Authority Reports up until 15 March 2014:

- **Common Seal and Executed Document Report.**

**CSF071: NEW ACCESS LICENCE DEED – TELSTRA CORPORATION LIMITED – PORTION OF RESERVE 2681, MT MELVILLE**

<b>Land Description</b>	: Portion of Reserve 2681 and being Lot 1469 on Deposited Plan 219955 and being the land comprised in Qualified Crown Land Title Volume LR3110 Folio 839
<b>Proponent</b>	: Telstra Corporation Limited
<b>Owner</b>	: Crown
<b>Attachments</b>	: Nil
<b>Responsible Officer(s)</b>	: Deputy Chief Executive Officer (G Adams)

**Responsible Officer's Signature:**



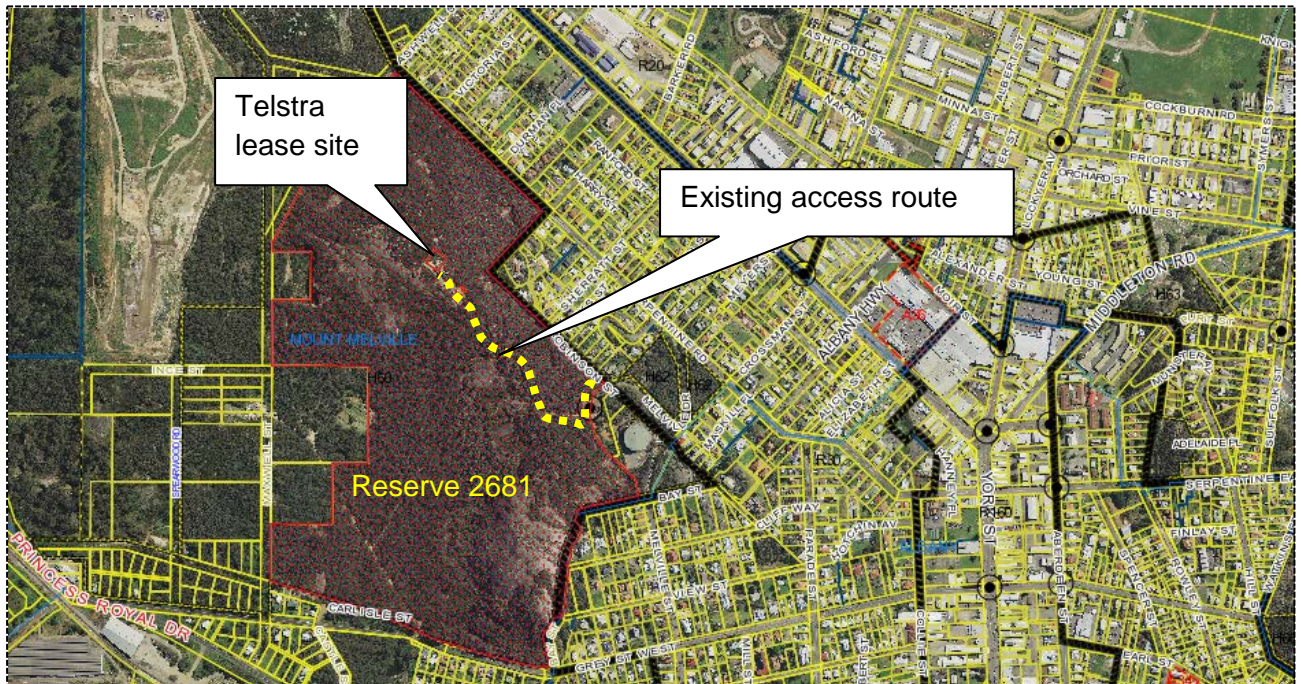
**STRATEGIC IMPLICATIONS**

1. This item relates directly to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2017:
  - a. **Key Theme:** Civic Leadership.
  - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
  - c. **Strategic Initiative:** 5.1.2 Systems Development and Improvement: Improve leased property management.

**IN BRIEF**

- Council is requested to consider an Access Licence Deed for Telstra to traverse City managed land over an existing access route within Reserve 2681 to formalise access to the Telstra telecommunication facility at Mt Melville.
- Telstra is currently negotiating to renew its lease with the Department of Lands for the existing telecommunication facility on Lot 1199, which is landlocked within Reserve 2681.
- The Department requires Telstra to formalise access to the lease site with the City prior to finalising the lease with the Department.
- It is recommended the request be supported.

Maps and Diagrams



**CSF071: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

That Council **APPROVE** the request for an Access Licence Deed from Telstra to access City managed land on portion of Reserve 2681, Mt Melville, subject to:

1. **Access Licence Deed commencement date being as soon as practical.**
2. **Pursuant to Section 18 of the *Land Administration Act 1997*, the Minister for Lands consent being obtained.**
3. **All costs associated with the preparation, execution and completion of the Deed being payable by Proponent, Telstra Corporation Limited.**

CSF071: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR WILLIAMS  
SECONDED: COUNCILLOR GREGSON

THAT the Responsible Officer Recommendation be **ADOPTED**.

CARRIED 11-0

**CSF071: RESPONSIBLE OFFICER RECOMMENDATION**

That Council APPROVE the request for an Access Licence Deed from Telstra to access City managed land on portion of Reserve 2681, Mt Melville, subject to:

1. Access Licence Deed commencement date being as soon as practical.
2. Pursuant to Section 18 of the *Land Administration Act 1997*, the Minister for Lands consent being obtained.
3. All costs associated with the preparation, execution and completion of the Deed being payable by Proponent, Telstra Corporation Limited.

**BACKGROUND**

2. Reserve 2681 is under Management Order H603437 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of “Public Park and Telecommunication” for any term not exceeding twenty one years and subject to the consent of the Minister for Lands.
3. Reserve 2681 has an area of 56 hectares and is situated at 179 Serpentine Road, Mt Melville. The Mt Melville Lookout and access road are situated within Reserve 2681.
4. The Telstra telecommunication facility, subject to a separate lease between the Department of Lands and Telstra is located adjacent the Lookout.
5. Telstra is currently negotiating to renew its lease with the Department of Lands for the existing telecommunication facility on Lot 1199, which is landlocked within Reserve 2681.
6. Telstra currently traverses Reserve 2681 to access the telecommunication facility under informal arrangements with the City.
7. The Department of Lands requires Telstra to formalise access to the lease site with the City prior to finalising any new lease with the Department.
8. The City currently has seven telecommunication leases with occupiers of the Lookout. All leases incorporate access arrangements to the Lookout.

**DISCUSSION**

9. Under the federal *Telecommunications Act 1997*, telecommunications carriers have very broad powers to enter land to install and maintain low-impact facilities. Carriers are not required to observe statutory obligations relating to the powers and functions of a local government.
10. Carriers can enter land with prior written notice, if agreement cannot be reached with the City, although this is not the favoured course of action. The City has limited rights of objection under the Act.

11. The Access Licence Deed will be drafted to allow access over City managed to the telecommunication facility, which will be the subject of a separate lease between the Department of Lands and Telstra.
12. The Deed will document the following, including but not limited to:
  - Subject to the approval of the Minister for Lands and contain required indemnities for the Minister and the City.
  - Non-exclusive access rights including acknowledgement that access is shared with the public and occupiers of the Lookout also.
  - The City is under no obligation to upgrade the access route.
  - Telstra acknowledges it has inspected and accepts the access route in its current condition and alignment.
  - A general make-good obligation for the access route specifically, and for the land to the extent any damage is caused by Telstra.
13. The City's Reserves team has been consulted and acknowledge Telstra's historic informal access arrangements and no objection to formalising access for Telstra.
14. Telstra will be responsible for all costs associated with the Access Licence Deed including preparation of the Deed and site plan defining the access route.

#### **GOVERNMENT & PUBLIC CONSULTATION**

15. This matter was initiated by the Department of Lands as a result of negotiations with Telstra to renew the Telstra lease on portion of Reserve 2681.
16. The Department of Lands will be further consulted, as it is a requirement of Section 18 of the *Land Administration Act 1997* that the Minister for Land's consent is obtained.
17. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including lease land and buildings including advertising requirements. The City is not required to advertise the non-exclusive access licence as Telstra fits within the classification of an instrumentality of the Commonwealth, which is exempt under the Act.

#### **STATUTORY IMPLICATIONS**

18. Section 18 of the *Land Administration Act 1997* states that a person shall not assign, sell transfer or otherwise deal with interests on Crown land or create or grant an interest in Crown land without the prior approval in writing of the Minister for Lands.
19. As this is Crown land, under Management Order H603437 held by the City, the Minister's consent will sought.
20. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including lease land and buildings including advertising requirements. The current request does not require advertising.

**POLICY IMPLICATIONS**

21. Council adopted a revised Property Management – Leases and Licences Policy in September 2012.
22. The Policy aims to ensure that all requests for leases and licences will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
23. The recommendation is consistent with Council Policy – Property Management – Leases and Licences.

**RISK IDENTIFICATION & MITIGATION**

24. The risk identification and categorisation relies on the City’s Risk Management Framework:

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Rating</b>	<b>Mitigation</b>
<i>Council does not approve the request to formalise access</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>Seek to negotiate terms to Council satisfaction.</i>

**FINANCIAL IMPLICATIONS**

25. All costs associated with the development, execution and completion of the proposed Access Licence Deed will be borne by the proponent, Telstra.

**LEGAL IMPLICATIONS**

26. The proposed access with Telstra will be a formal Access Licence Deed. The Deed will be reviewed by the City’s lawyers to ensure parties’ obligations are recorded.

**ENVIRONMENTAL IMPLICATIONS**

27. There are no environmental implications.

**ALTERNATE OPTIONS**

28. Council may:
  - Approve the request for an Access Licence Deed; or
  - Decline the request.
29. However, should Council decline the request, Telstra may invoke its statutory rights under the *Telecommunication Act* that allows licensed carriers to give written notice and enter the land, if not agreed by the City.

**SUMMARY CONCLUSION**

30. Telstra has requested access through City managed land within Reserve 2681 over the existing access route to its landlocked facility, subject of a separate lease between the Department of Lands and Telstra.
31. The Telstra telecommunication facility is situated adjacent to the Mt Melville Lookout.
32. Under the federal *Telecommunications Act 1997*, Telstra has very broad powers to enter land to install and maintain low-impact facilities. If agreement cannot be reached with the City, Telstra may invoke its statutory rights to access and use the land.
33. The City has no objections to having an Access Licence Deed for Telstra over Reserve 2681 as this is simply formalising current informal access arrangements.

<b>Consulted References</b>	<ul style="list-style-type: none"><li>• Council Policy – Property Management – Leases and Licences</li><li>• <i>Local Government Act 1995</i></li><li>• <i>Land Administration Act 1997</i></li></ul>
<b>File Number (Name of Ward)</b>	PRO396, A193726 (Frederickstown Ward)
<b>Previous Reference</b>	Nil

**CSF072: EXCISION OF LAND & PARTIAL SURRENDER OF LEASE FROM RESERVE 1189 CHESTER PASS ROAD, WILLYUNG (KING RIVER HORSE AND PONY CLUB INC) FOR ROAD WIDENING BY MAIN ROADS WA**

<b>Land Description</b>	: Reserve 1189 Chester Pass Road, Willyung, being Lot 8026 on Deposited Plan 194420 and being portion of the land comprised in Certificate of Title LR3115/78
<b>Proponent</b>	: Main Roads WA
<b>Owner</b>	: State of WA, Crown reserve vested in City of Albany (Reserve leased to King River Horse & Pony Club Inc)
<b>Attachments</b>	: Aerial Photograph showing road widening area
<b>Responsible Officer(s)</b>	: Deputy Chief Executive Officer (G Adams)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates directly to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2017:
  - a. **Key Theme:** Civic Leadership.
    - **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
    - **Strategic Initiative:** 5.1.2 Systems Development and Improvement: Improve leased property management.
  - b. **Key Theme:** Clean, Green & Sustainable.
    - **Strategic Objective:** 2.2 To maintain and renew city assets in a sustainable manner.
    - **Strategic Initiative:** 2.2.1 Asset Management and 2.2.4 Drainage / Water Management

**IN BRIEF**

- Council is requested to consider a request from Main Roads WA to excise a 4900m<sup>2</sup> portion of land from Reserve 1189 Chester Pass Road, Willyung for road widening purposes.
- This road widening will be used for road upgrading and drainage works and to accommodate an upgraded access to residents at 777 Chester Pass Road.
- The road widening will necessitate the partial surrender of the lease of Reserve 1189 to the King River Horse and Pony Club Inc.
- An appropriate resolution of Council is required to meet the provisions of the *Land Administration Act 1997*, on behalf of Main Roads WA.
- It is recommended the request be supported.



Maps and Diagrams



**CSF072: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council:**

- 1. SUPPORTS** the proposal by Main Roads WA to excise a 4900m<sup>2</sup> (subject to survey) area of land from Reserve 1189 to allow for the widening of Chester Pass Road.
- 2. SUPPORTS** the action by Main Roads WA to seek approval of the Minister for Lands, under section 56 of the *Land Administration Act 1997*, to dedicate the land to be taken for road widening as a public road;
- 3. INDEMNIFIES** the Minister for Lands, on behalf of Main Roads WA, from any claims for compensation, as is required under Section 56 of the *Land Administration Act 1997*; and;
- 4. REQUIRES** that Main Roads WA indemnify the Council against all costs and charges, including any claims for compensation that may arise, associated with this dedication action.
- 5. APPROVE** the partial surrender of the existing lease area on Reserve 1189 currently held by the King River Horse and Pony Club Inc subject to:
  - a) Partial Surrender of Lease** date being determined by Main Roads WA requirements;
  - b) Surrender portion** being approximately 4900m<sup>2</sup> metres to be confirmed by survey;
  - c) Pursuant to Section 18 of the *Lands Administration Act 1997***, the Minister for Lands consent is obtained; and
  - d) All costs associated with the partial surrender of lease being met by Main Roads WA, including:**
    - i. Survey of the new lease area;**
    - ii. Development, execution and completion of the Partial Surrender of Lease documentation;**
    - iii. Any costs associated with relocating existing King River Horse & Pony Club infrastructure; and**
    - iv. Construction of a new boundary fence along the Chester Pass Road frontage, to the King River Horse and Pony Club and City's satisfaction.**

**CSF072: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR PRICE  
SECONDED: COUNCILLOR HAMMOND**

**THAT the Responsible Officer Recommendation be ADOPTED.**

**CARRIED 11-0**

CSF072: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. SUPPORTS the proposal by Main Roads WA to excise a 4900m<sup>2</sup> (subject to survey) area of land from Reserve 1189 to allow for the widening of Chester Pass Road.
2. SUPPORTS the action by Main Roads WA to seek approval of the Minister for Lands, under section 56 of the *Land Administration Act 1997*, to dedicate the land to be taken for road widening as a public road;
3. INDEMNIFIES the Minister for Lands, on behalf of Main Roads WA, from any claims for compensation, as is required under Section 56 of the *Land Administration Act 1997*; and;
4. REQUIRES that Main Roads WA indemnify the Council against all costs and charges, including any claims for compensation that may arise, associated with this dedication action.
5. APPROVE the partial surrender of the existing lease area on Reserve 1189 currently held by the King River Horse and Pony Club Inc subject to:
  - a) Partial Surrender of Lease date being determined by Main Roads WA requirements;
  - b) Surrender portion being approximately 4900m<sup>2</sup> metres to be confirmed by survey;
  - c) Pursuant to Section 18 of the *Lands Administration Act 1997*, the Minister for Lands consent is obtained; and
  - d) All costs associated with the partial surrender of lease being met by Main Roads WA, including:
    - i. Survey of the new lease area;
    - ii. Development, execution and completion of the Partial Surrender of Lease documentation;
    - iii. Any costs associated with relocating existing King River Horse & Pony Club infrastructure; and
    - iv. Construction of a new boundary fence along the Chester Pass Road frontage, to the King River Horse and Pony Club and City's satisfaction.

## **BACKGROUND**

2. The management order of Reserve 1189 Chester Pass Road is held by the City of Albany, with the power to lease for a period of up to 21 years subject to the consent of the Minister for Lands. The purpose of the reserve is “Recreation”.
3. Reserve 1189 has an area of 13 hectares and is located at the corner of Chester Pass and Willyung Roads, Willyung. This reserve has a 245m frontage to Chester Pass Road.
4. The King River Horse and Pony Club Inc. was established in 1961 and has been operating on this reserve since 1964.
5. The King River Horse and Pony Club Inc was granted a lease over an approximate 11 hectare portion of Reserve 1189 in January 1989 for the purpose of establishing grounds suitable for the riding of horses and conducting other equestrian events. This original lease expired in December 2009.
6. Upon expiry of the lease, Council approved a new lease at OCM 17 November 2009 to the King River Horse and Pony Club Inc. (Pony Club). A small reduction to the lease area was required to accommodate Department of Waters’ setbacks from the banks of Willyung Creek.
7. The lease term of 21 years commenced 1 January 2010 and will expire on 31 December 2030.
8. In May 2013, the City received correspondence from Main Roads WA requesting the City to consider relinquishing a 20 metre wide section of land from Reserve 1189 to allow for the widening of Chester Pass Road. This equates to an area of approximately 4,900m<sup>2</sup>.
9. In June 2013, the City responded to Main Roads correspondence advising that there were no major objections to the proposed excision in principle, however their further consideration was required on drainage matters, access to adjoining residents at 777 Chester Pass Road and the surrender of the lease area of approximately 4,900m<sup>2</sup> by the King River Horse and Pony Club. Since this time, Main Roads WA has been undertaking its necessary negotiations.

## **DISCUSSION**

### Basis for Road Widening

10. Main Roads WA have sought the excision of a 20 metre wide portion from Reserve 1189, equating to approximately 4900m<sup>2</sup>, to provide for the widening of Chester Pass Road. Main Roads WA have advised that the road widening is required for the following purposes:
  - a. To provide storm water drainage to Willyung Creek. The catchment for this drainage line includes Chester Pass Road, Willyung Road, Norwood Road and Copal Road. This includes a drainage line passing through the private land held at 777 Chester Pass Road;
  - b. To allow for the construction of a new crossover in order to access 777 Chester Pass Road; and
  - c. To allow for the realignment and widening of Chester Pass Road as it approaches the Upper King River Bridge.

11. Main Roads WA intent is to move the existing drain line along Chester Pass Road and the current road alignment to include a submerged drain, which will allow for a dual use path to be constructed (in the future) along the west side of Chester Pass Road.
12. The drainage route was chosen in consultation with the City of Albany Engineering Division. The City has noted this location as a designated flood prone area.
13. With regard to the drainage line passing through 777 Chester Pass Road, this has been negotiated independently between Main Roads WA and the owners of this property. It does not require any action by the City. It is understood Main Roads will be undertaking works on this property and will be constructing a new crossover through the road widening area. In addition, Main Roads are proposing to purchase the drainage land from the owners of 777 Chester Pass Road so that it remains in their control. This will relate to a future subdivision application.
14. Main Roads WA have requested that Council provide an appropriate resolution of concurrence to the road widening action, in order to satisfy the requirements of the *Land Administration Act 1997* and has advised that they will meet all costs associated with this action.

#### Impact on Leasehold

15. Main Roads WA was advised that a community lease to the King River Horse and Pony Club Inc. was in place over Reserve 1189 and that the City would require the Lessee's written approval to the proposal including the partial surrender of their lease area.
16. A written request has been received from the King River Horse and Pony Club advising that they support the excision of approximately 4,900m<sup>2</sup> of their leasehold to accommodate Main Roads WA future drainage and road upgrades.
17. Main Roads WA will be responsible for all costs associated with the partial surrender of the lease, including the preparation of the Partial Surrender of Lease document and the new survey plan, moving of the Pony Club infrastructure and a new fence along the Chester Pass Road frontage.

#### **GOVERNMENT & PUBLIC CONSULTATION**

18. Similar proposals have previously been discussed with the Department of Lands to clarify the appropriate legislative processes that must be observed. The Department advised that Main Roads WA do not have any power to comply with the provisions of Section 56 of the *Land Administration Act 1997* with respect to road dedications and the Council must do this on their behalf. However, Main Roads WA is responsible for all the consultation, costs and charges associated with this action.
19. With regard to the surrender of lease, the Department of Lands will be further consulted, as it is a requirement of Section 18 (1) of the *Land Administration Act 1997* that the Minister for Land's consent is obtained.

## STATUTORY IMPLICATIONS

### Provisions Relating to Road Widening

20. Section 51 of the *Land Administration Act 1997* allows the Minister for Lands to cancel or amend the boundaries of a reserve or the lots comprising a reserve.
21. Section 56 of the *Land Administration Act 1997* allows the dedication of land as a road. In doing so, the Local Government must indemnify the Minister for Lands against any claim for compensation.
22. Section 168 of the *Land Administration Act 1997* sets the procedure for acquiring land for public works through a Taking by Agreement. Part 10 of the Act states that every person having an interest in land taken under the Act is entitled to compensation. In this case, the City is not seeking compensation as the road widening impacts a Crown Land Reserve.
23. The creation of a road occurs through the subdivision process detailed under Part 10 of the *Planning and Development Act 2005*. Section 168 of this Act states all land shown on a diagram or plan of survey of a subdivision shown as a new road or road widening will be dedicated as a road.

### Provisions Relating to Surrender of Lease

24. Section 18 (1) of the *Land Administration Act 1997* states that a person must not, without the prior approval in writing of the Minister assign, sell, transfer or otherwise deal with interests on Crown land. The Minister's consent for the surrender of lease will be sought.
25. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased land and buildings. The current proposal does not enact any provisions in this part, as it deals with an existing leasehold.

### Other Related Provisions

26. With regard to Aboriginal Heritage considerations, given this is a Main Roads action, they must satisfy their own requirements under the *Aboriginal Heritage Act 1972*.
27. Under the City's Town Planning Scheme No. 3, the subject land is zoned "Private Clubs and Institutions". The King River Horse and Pony Club's use of the area for the purpose of "the establishment of grounds suitable for the riding of horses and conducting other equestrian events" has been permitted in accordance with the Scheme. The City's draft Local Planning Scheme No. 1, which is close to gazettal, will change the zoning of the land to "General Agriculture". However, the existing established use will be permitted to continue.

**POLICY IMPLICATIONS**

- 28. Council adopted a revised Property Management – Leases and Licences Policy in September 2012.
- 29. The Policy aims to ensure that all requests for leases and licences will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
- 30. The recommendation is consistent with Council Policy – Property Management – Leases and Licences.

**RISK IDENTIFICATION & MITIGATION**

- 31. The risk identification and categorisation relies on the City's Risk Management Framework:

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Rating</b>	<b>Mitigation</b>
<i>If appropriate Council resolution is not obtained, Main Roads WA cannot proceed with road widening which will allow upgrading works to occur.</i>	<i>Unlikely</i>	<i>Major – Main Roads would not be able to proceed with drainage works which have been identified as essential for flood mitigation</i>	<i>Medium</i>	<i>Council supports Main Roads WA request and comply with the provisions of the Land Administration Act 1997 to allow the upgrading works to occur.</i>
<i>Council does not approve partial surrender of lease – reputational loss to the City</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>Seek to negotiate terms to Council satisfaction.</i>

**FINANCIAL IMPLICATIONS**

- 32. There are no financial implications relevant to this item, as all costs associated with the road widening, the future upgrading works and the partial surrender of lease will be borne by Main Roads WA.

**LEGAL IMPLICATIONS**

- 33. The widening of Chester Pass Road will ensure that there is sufficient road reserve available to undertake the proposed works on land legitimately reserved for this purpose.
- 34. The agreement with the Lessee will be a formal Partial Surrender of Lease document and will be prepared by the City's lawyers, at Main Roads WA expense.

**ENVIRONMENTAL IMPLICATIONS**

- 35. Main Roads WA will be responsible for addressing any environmental approvals that may be required as part of the future upgrading works.

### ALTERNATE OPTIONS

36. There is not considered to be any alternate options in this circumstance, as the Council is simply assisting Main Roads WA to complete necessary road and drainage works and comply with the legislative requirements in order for this to be achieved. In addition, the primary stakeholder impacted by this proposal (King River Horse and Pony Club) have advised that they have no objection to the proposal.

### SUMMARY CONCLUSION

37. The proposed widening of Chester Pass Road will be undertaken to facilitate road and drainage upgrading works, which are considered necessary in this area.
38. Council's resolution is required to comply with the provisions of the *Land Administration Act 1997* relative to the dedication of this land as a road reserve, as Main Roads WA does not have any powers under this Act.
39. Main Roads WA has effectively negotiated with the King River Horse and Pony Club, such that the Club has advised that they support the excision of approximately 4900m<sup>2</sup> from Reserve 1189 to allow for the upgrading works to occur.
40. The proposal will require the partial surrender of the lease area held by King River Horse and Pony Club over Reserve 1189.

<b>Consulted References</b>	<ul style="list-style-type: none"><li>• Council Policy – Property Management – Leases and Licences</li><li>• <i>Local Government Act 1995</i></li><li>• <i>Land Administration Act 1997</i></li></ul>
<b>File Number (Name of Ward)</b>	PRO215, A65999 (Kalgan Ward)
<b>Previous Reference</b>	OCM 17/11/2009 Item 14.11.1



**CSF074: ELECTED MEMBER ATTENDANCE AT INTERSTATE CONFERENCE - INVITATION TO THE MAV FUTURE OF LOCAL GOVERNMENT NATIONAL SUMMIT**

**Proponent** : City of Albany  
**Attachments** : Nil  
**Responsible Officer(s)** : Chief Executive Officer (G Foster)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the [City of Albany Strategic Community Plan 2023](#) and [Corporate Business Plan 2013-2017](#):
  - a. **Key Theme:** 5. Civic Leadership
  - b. **Strategic Objective:** 5.3. To engage effectively with our community.
  - c. **Strategic Initiatives:** 5.3.2. Increased interaction between councillors and the community.

**In Brief:**

- Endorse the attendance of an elected member at the subject interstate conference.

**RECOMMENDATION**

**CSF074: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council ENDORSE the attendance of Councillor Williams at the Municipal Association of Victoria (MAV) conference.**

CSF074: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GOODE  
SECONDED: COUNCILLOR HOLLINGWORTH

THAT the Responsible Office Recommendation be ADOPTED.

CARRIED 8-3

**Record of Vote**

Against the Motion: Mayor Wellington, Councillors Dowling and Hortin

CSF074: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ENDORSE the attendance of Councillor Williams at the Municipal Association of Victoria (MAV) conference.

**BACKGROUND**

2. The tenth Future of Local Government National Summit will be held on May 21-22. This year’s event will include some of the following subjects:
  - a. A Commission of Inquiry into ‘Rewiring Public Services: is there a better way? What is the game plan: do we take the ‘high road’ or the ‘low road’?
  - b. Jeff Kennett asking if there is a future for Local Government (LG).
  - c. Graham Sansom (Panel Chair, NSW LG Review) assessing whether shared services will replace amalgamations as the preferred future direction for the sector
  - d. A number of leading edge LG case studies demonstrating innovation and collaboration.

**DISCUSSION**

3. Councillor Williams has indicated an interest in attending this conference.
4. In accordance section 2.8 of the *Local Government Act 1995*, it is the Mayor’s role to speak on behalf of the City of Albany.
5. Council has delegated the approval for Elected Members to attend conferences with the condition that attendance is supported by the Mayor and noted by the CEO if the representative is called to speak on behalf of the City of Albany.
6. This report has been presented for the endorsement and approval of Council.

**GOVERNMENT & PUBLIC CONSULTATION**

7. Nil

**STATUTORY IMPLICATIONS**

8. Nil

**POLICY IMPLICATIONS**

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

**RISK IDENTIFICATION & MITIGATION**

10. The risk identification and categorisation relies on the City’s [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation - Lack of engagement with the local government sector</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Support an elected member attending the conference.</i>

**FINANCIAL IMPLICATIONS**

11. Funding is allocated in the current budget for elected members to attend training and conferences.
12. The cost per elected member to attend the conference is estimated to be \$2,800, which will cover:
  - a. Return Flights from Albany: \$1000
  - b. Accommodation: 20 May through to 23 May 2014: \$800
  - c. Conference Cost per person. \$594
  - d. Meals and travel allowances: \$406

**LEGAL IMPLICATIONS**

13. Nil.

**ENVIRONMENTAL CONSIDERATIONS**

14. Nil.

**ALTERNATE OPTIONS**

15. Nil.

**SUMMARY CONCLUSION**

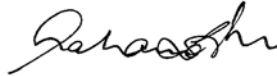
16. It is recommended that the attendance is endorsed.

<b>Consulted References</b>	:	<i>Local Government Act 1995</i> <a href="http://www.mav.asn.au/events/Pages/2013-folq-national-summit-22052013.aspx">http://www.mav.asn.au/events/Pages/2013-folq-national-summit-22052013.aspx</a>
<b>File Number (Name of Ward)</b>	:	(All Wards)
<b>Previous Reference</b>	:	Nil

**CSF075: 2014-15 ORDINARY COUNCIL MEETING DATES AND COMMITTEE PLANNING MEETING CALENDAR**

**Proponent** : City of Albany  
**Attachments** : Attachment - 2014-15 City of Albany Ordinary Council & Committee Planning Meeting Calendar  
**Responsible Officer(s)** : Chief Executive Officer (G Foster)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2017:
  - a. **Key Theme:** 5. Civic Leadership.
  - b. **Strategic Objectives:**
    - 5.1. To establish and maintain sound business and governance structures.
    - 5.3 To engage effectively with our community.
  - c. **Strategic Initiative:** 5.3.2. Councillor Forums

**In Brief:**

- Receive new Committee Meeting Planner and set new ordinary council meeting dates.

**RECOMMENDATION**

**CSF075: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council SET the 2014/15 Ordinary Council Meeting Dates, as follows and GIVE public notice:**

Month	Year	Ordinary Meeting (6.00pm)
August	2014	26 August 2014
September	2014	23 September 2014
October	2014	28 October 2014
November	2014	25 November 2014
December	2014	16 December 2014
January	2015	No Meeting
February	2015	24 February 2015
March	2015	24 March 2015
April	2015	28 April 2015
May	2015	26 May 2015
June	2015	23 June 2015
July	2015	28 July 2015

**CSF075: COMMITTEE RECOMMENDATION**

MOVED: COUNCILLOR BOWLES  
SECONDED: COUNCILLOR GREGSON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

**CSF075: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council SET the 2014/15 Ordinary Council Meeting Dates, as follows and GIVE public notice:

Month	Year	Ordinary Meeting (6.00pm)
August	2014	26 August 2014
September	2014	23 September 2014
October	2014	28 October 2014
November	2014	25 November 2014
December	2014	16 December 2014
January	2015	No Meeting
February	2015	24 February 2015
March	2015	24 March 2015
April	2015	28 April 2015
May	2015	26 May 2015
June	2015	23 June 2015
July	2015	28 July 2015

**BACKGROUND**

2. On 25 June 2013, Council adopted a new Community Strategic Plan (Albany 2023) and Corporate Business Plan.
3. To facilitate this process, Council established a new Council Committee Structure (Standing Committees) to act as a conduit for proposed and reviewed strategy and policy positions.
4. At the Ordinary Council Meeting held on 29 October 2013, Council resolved to open monthly agenda briefing sessions to the public.
5. It is a statutory requirement for Council to give Local Public Notice at least once each year of when Council plans to hold Council and Committee meetings that are open to public attendance.
6. The current forward meeting planner (public notice) is valid up until July 2014.

**DISCUSSION**

7. Currently ordinary meetings of Council are scheduled at 6.00pm on the basis that all meetings should be held outside of normal working hours to enable attendance by all Councillors and interested members of the public.

8. Council Committee meetings are scheduled to begin at 5.30pm.
9. The Agenda for the Ordinary Council Meetings are comprised of reports presented to Council Committees. In order to facilitate the timely presentation of these reports to Council for decision making, Council Committee meetings are scheduled for the first two weeks of each month.
10. This scheduling enables all Council Committee report items to be presented to Council in the same month as the Committee meetings have occurred.
11. The current Council Committee meeting schedule is as follows:

**First week of the month**

- Tuesday: Economic Development Committee
- Wednesday: Planning and Development Committee
- Thursday: Community Services Committee

**Second week of the month**

- Tuesday: Corporate Services and Finance Committee
- Wednesday: Works and Services Committee

**Third week of the month**

- Tuesday: Agenda Briefing Session and Strategic Workshop.

**Fourth week of month**

- Tuesday: Ordinary Council Meeting

12. The following Committees of Council are scheduled on an as required basis with a minimum of three meetings per calendar year:
  - Audit & Risk Management Committee
  - Local Emergency Management Committee
  - Airport Emergency Committee
  - Bushfire Advisory Committee

**GOVERNMENT & PUBLIC CONSULTATION**

13. State & Federal Government. The proposal has been designed to not conflict with local government elections that are historically held on the third weekend of October and state and national public holidays.

**STATUTORY IMPLICATIONS**

14. In accordance with the *Local Government Act 1995*, s 5.25(1)(g) and as prescribed by the *Local Government (Administration) Regulations 1996*, Regulation 12:
  - (1) *At least once each year a local government is to give local public notice of the dates on which and the time and place at which —*
    - (a) *the ordinary council meetings; and*
    - (b) *the 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, are to be held in the next 12 months.*
  - (2) *A local government is to give local public notice of any change to the date, time or place of a meeting referred to in sub-regulation (1).*

**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 Management Framework.

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<i><b>Legal and Compliance.</b> Local Public Notice is not given of the dates and times at which the Ordinary Council Meetings will be held</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Implement the proposed City of Albany Ordinary Council and Committee Planner for local public notice advertising.</i>

**FINANCIAL IMPLICATIONS**

17. A budget line exists for the cost of giving public notice and advertising.

**LEGAL IMPLICATIONS**

18. Local public notice must be given to ensure legislative compliance, detailing changes to the forecast ordinary meeting schedule.

**ENVIRONMENTAL CONSIDERATIONS**

19. There are no direct environmental considerations related to this item; however an efficient meeting schedule will reduce wasted resources (time, travel, and office consumables).

**ALTERNATE OPTIONS**

20. The Council may consider alternate day and dates and order.

**SUMMARY CONCLUSION**

21. That the proposed meeting calendar be endorsed and adopted.

<b>Consulted References</b>	:	<i>Local Government Act 1995</i>
<b>File Number (Name of Ward)</b>	:	(All Wards) <ul style="list-style-type: none"> <li>• Audit and Risk Committee - FM.MEE.3</li> <li>• Community Services Committee – CS.MEE.9</li> <li>• Corporate Services &amp; Finance Committee – CS.MEE.9</li> <li>• Economic Development Committee – ED.MEE.10</li> <li>• Works &amp; Services Committee – RD.MEE.6</li> <li>• Planning &amp; Development Committee – LP.MEE.1</li> </ul>
<b>Previous Reference</b>	:	OCM 19/02/2013 Report Item 1.3 OCM 27/08/13 Report Item CSF003

**CSF076: WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION  
(WALGA) – GREAT SOUTHERN ZONE**

**Proponent** : City of Albany  
**Attachments** : Nil  
**Responsible Officer(s)** : Chief Executive Officer (G Foster)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2017:
  - a. **Key Theme:** 5. Civic Leadership.
  - b. **Strategic Objectives:**
    - 5.1. To establish and maintain sound business and governance structures.
    - 5.3. To engage effectively with our community.
  - c. **Strategic Initiative:** Nil

**In Brief:**

- Nominate representatives for WALGA Great Southern Zone

**RECOMMENDATION**

**CSF076: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council:**

- (1) **NOMINATE** all elected members to represent the City of Albany as delegates on the Great Southern Zone of WALGA.
- (2) **NOTE** that representation will be shared by all elected members so that all elected members have the opportunity to represent the City.

CSF076: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR BOWLES  
SECONDED: COUNCILLOR HORTIN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-2

CSF076: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- (1) **NOMINATE** all elected members to represent the City of Albany as delegates on the Great Southern Zone of WALGA.
- (2) **NOTE** that representation will be shared by all elected members so that all elected members have the opportunity to represent the City.



## BACKGROUND

2. The City of Albany has no representative appointed to the Great Southern Zone of the Western Australian Local Government Association (WALGA).
3. WALGA advocates on behalf of the State's Local Governments and negotiates service agreements for the sector.
4. Zones are groups of geographically aligned members, responsible for:
  - a. Direct elections of State Councillors;
  - b. Input into policy formulation; and
  - c. Advise on matters.
5. WALGA is not a government department or agency.

## DISCUSSION

6. Noting that the role of the association is advocacy, it is considered appropriate that Council provides representation on the WALGA Great Southern Zone Committee.
7. Council may consider it appropriate to nominate:
  - a. Two elected members as representatives; or
  - b. All elected members of the Council; to represent the City.
8. Each representative Council can nominate 2 voting delegates.
9. At the meeting held on 28 February 2014, City Staff represented the City (being: Executive Director Planning & Development Services, Dr Dale Putland); however voting is restricted to elected member delegates only.

## GOVERNMENT AND PUBLIC CONSULTATION

10. Nil

## STATUTORY IMPLICATIONS

11. The rules that govern attendance at the meetings are detailed in the Zone Standing Orders.

## POLICY IMPLICATIONS

12. There are no policy implications related to this item.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation. Council determines not nominate any representatives.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Continue to monitor communiqué distributed from WALGA and reconsider position at future time.</i>  <i>Continue to send Staff as none voting representatives.</i>

**FINANCIAL IMPLICATIONS**

14. Travel is restricted to the geographical areas known as the Great Southern, with a number of the meetings being held by teleconference.

**LEGAL IMPLICATIONS**

15. Nil

**ENVIRONMENTAL CONSIDERATIONS**

16. Nil.

**SUMMARY CONCLUSION**

17. Nil.

<b>Consulted References</b>	:	<i>Local Government Act 1995</i> <a href="http://www.walga.asn.au/">http://www.walga.asn.au/</a>
<b>File Number (Name of Ward)</b>	:	<i>GO.CLS.16 (All Wards)</i>
<b>Previous Reference</b>	:	<i>OCM 29/10/2013 Item 16.1</i>

## CSF077: COUNCIL POLICY – CEO PERFORMANCE REVIEW

**Proponent** : City of Albany  
**Attachments** : Draft Council Policy- CEO Performance Review  
**Responsible Officer(s):** : Deputy Chief Executive Officer (G Adams)

**Responsible Officer's Signature:**



### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2017:
  - a. **Key Theme:** 5. Civic Leadership
  - b. **Strategic Objective:** 5.1. To establish and maintain sound business and governance structure.
  - c. **Strategic Initiative:** Nil

### In Brief:

- The Committee note the changes made to the proposed CEO Review Process Policy and consider establishing a CEO Performance Review Committee.

### RECOMMENDATION

#### CSF077: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Council:

1. **ADOPT** the CEO Performance Review Policy.
2. **ESTABLISH** a CEO Performance Review Committee amending the Terms of Reference for the Corporate Services and Finance Committee accordingly.
3. **ELECT** the Mayor and three elected members to the CEO Performance Review Committee at the Ordinary Council Meeting to be held on 22 April 2014.

**CSF077: COMMITTEE RECOMMENDATION**

MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR BOWLES

THAT Council:

1. ADOPT the CEO Performance Review Policy.
2. ESTABLISH a CEO Performance Review Committee amending the Terms of Reference for the Corporate Services and Finance Committee accordingly.
3. ELECT the Mayor and three elected members to the CEO Performance Review Committee at the Ordinary Council Meeting to be held on 22 April 2014.

CARRIED 10-1

**Record of Vote**

Against the Motion: Councillor Goode

**CSF077: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council:

1. ADOPT the CEO Performance Review Policy.
2. ESTABLISH a CEO Performance Review Committee amending the Terms of Reference for the Corporate Services and Finance Committee accordingly.
3. APPOINT the following nominated members to the CEO Performance Review Committee:
  - Mayor Wellington
  - ;
  - ;
  - ;

**CSF077: MOTION BY COUNCILLOR GOODE**

MOVED: COUNCILLOR GOODE  
SECONDED: COUNCILLOR GREGSON

THAT Council:

- ADOPT the CEO Performance Review Policy.
- ESTABLISH a CEO Performance Review Committee amending the Terms of Reference for the Corporate Services and Finance Committee accordingly.
- APPOINT the Mayor and up to six Councillors to the CEO Performance Review Committee.

LOST 2-9

**Record of Vote**

For the Motion: Councillors Goode and Gregson

## **BACKGROUND**

1. In March 2014 the Corporate Services and Finance Committee was advised:
  - a. The performance review process can not only provide an excellent opportunity to look at the performance of the CEO in the preceding twelve months but can also allow both parties to discuss and agree on realistic and appropriate objectives for the next review period.
  - b. The review process allows for identification and agreement on the CEO's strengths and areas which might benefit from further development.
  - c. Above all, the performance review process should be regarded as an opportunity to build relationships and to increase the effectiveness of individuals, systems and processes which will improve the performance and the profile of the City of Albany.
  - d. The draft version for discussion was prepared by the Deputy Mayor, Councillor Stocks and Councillor Bowles post attending the CEO Performance Appraisals Training provided by the Western Australian Local Government Association (WALGA).

## **DISCUSSION**

2. Previously members of the Committee raised concern on having the CEO recruitment and performance review combined.
3. Post presentation to the Committee an additional review was conducted by the City's Human Resource Manager.
4. Although the performance review process forms an essential element of actually employing a CEO, it is recommended that that link can exist in two policies.
5. Therefore, the proposed policy was amended by deleting the reference to the selection process and instead linked to setting Key Performance Indicators (KPIs) on recruitment of the CEO.
6. Currently the Chief Executive Officers Performance Appraisal is a function of the Corporate Services and Finance Committee, extract from the CSF Committee's Terms of Reference:
7. Chief Executive Officers Performance Appraisal Function: This committee is responsible for reviewing the performance of the CEO in accordance with s5.38 of the Local Government Act 1995 and conditions of contact.
8. In line with the proposed policy position if adopted, there will be a requirement to establish a separate Committee to facilitate this function.
9. The composition of the Committee is governed by Council and it is recommended that all elected members contribute to the review process; however membership of the Committee is limited to the Mayor and three elected members in accordance with the policy.

## **GOVERNMENT & PUBLIC CONSULTATION**

10. Local Government Sector: Proposed policy position was based on WALGA training and industry recommended practice.

## **STATUTORY IMPLICATIONS**

11. Section 5.38 of the Local Government Act 1995. The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.
12. Division 2, Part 5 of the Local Government 1995 deals with Council Meetings, committees and their meetings.
13. In accordance with section 5.10(4) of the Local Government Act 1995, if the Mayor informs the local government of his wish to be a member of a committee, the local government is to appoint the mayor to be a member of the committee.

**POLICY IMPLICATIONS**

14. New policy.
15. Amend the Council Policy: Governance and Meeting Framework - NP084913\_7 accordingly.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Legal and Compliance.</b> Council does not adopt the proposed policy position	Unlikely	Minor	Low	Conduct additional reviews until Council endorses draft policy position.
<b>Legal and Compliance.</b> Council does not establish an additional Committee and appoint members to the Committee	Unlikely	Minor	Low	Council appoints elected members at a future meeting of Council.

**FINANCIAL IMPLICATIONS**

17. Nil

**LEGAL IMPLICATIONS**

18. There are no legal implications related to this item.

**ENVIRONMENTAL CONSIDERATIONS**

19. Nil

**ALTERNATE OPTIONS**

20. Continue to conduct the performance review as a sub-working group of the Corporate Services and Finance Committee.

**SUMMARY CONCLUSION**

21. It is recommended that the draft policy position is adopted by Council and a separate CEO performance review committee is established.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• <a href="#">Government of Western Australia, Department of Local Government and Communities Operational Guideline: Number 10 – Appointing a CEO, revised August 2012.</a></li> <li>• <a href="#">Council Policy: Governance and Meeting Framework Policy</a></li> </ul>
<b>File Number (Name of Ward)</b>	:	<ul style="list-style-type: none"> <li>• CM.STD.7 – Council Policy Register (All Wards)</li> </ul>
<b>Previous Reference</b>	:	<ul style="list-style-type: none"> <li>• Committee Meeting 11/03/2014 Report Item CSF065</li> <li>• OCM 29/10/2013 Report Item 16.1</li> </ul>

**CSF078: SALE OF LAND-ENDORSEMENT OF CEO ACTIONS**

**Land Description** : “The Ridge” Estate, Cull Road Development, Lockyer, various lots.  
**Attachments** : Nil  
**Responsible Officer(s)** : Deputy Chief Executive Office (G Adams)

*Item under Confidential Cover in accordance with s5.23 (2) (c) and (e iii) of the Local Government Act 1995, being:*

*(c) 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; and*

*(e) a matter that if disclosed, would reveal (iii) information that has a commercial value to a person-where the trade secret or information is held by or is about, a person other than the local government.*

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2017:
  - a. **Key Theme:** 5. Civic Leadership.
  - b. **Strategic Objectives:**
    - 5.1. To establish and maintain sound business and governance structures.
  - c. **Strategic Initiative:** Nil

**In Brief:**

- Endorse actions of CEO in selling Lot 440 Gifford Street.

**BACKGROUND**

2. The Corporate Services and Finance Committee Recommends that the CEO’s power of delegation is amended to give the CEO the discretion to apply a price reduction if appropriately justified and supported by evidence.

**CSF078: COMMITTEE RECOMMENDATION**

1. **THAT Council ENDORSE the actions of the CEO in selling Lot 440 Gifford Street.**
2. **The CEO is able to apply a price reduction to the advertised prices, only if appropriately justified and supported by evidence.**

CSF078: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GOODE  
 SECONDED: COUNCILLOR WILLIAMS

1. THAT Council ENDORSE the actions of the CEO in selling Lot 440 Gifford Street.
2. The CEO is able to apply a price reduction to the advertised prices, only if appropriately justified and supported by evidence.

CARRIED 11-0

<b>Consulted References</b>	:	Local Government Act 1995
<b>File Number (Name of Ward)</b>	:	(All Wards)
<b>Previous Reference</b>	:	OCM 29/10/2013 CSF029

**WS033: SOUTH COAST NATURAL RESOURCE MANAGEMENT (SCNRM) FUNDING – MOUNT MELVILLE COMMUNITY FAUNA SURVEYS**

**Land Description** : Mt Melville reserve – R41252  
**Proponent** : City of Albany  
**Owner** : Crown land – Management Order City of Albany  
**Responsible Officer(s):** : Executive Director Works and Services (M Thomson)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the [City of Albany Strategic Community Plan 2023](#) and [Corporate Business Plan 2013-2017](#):
  - a. **Key Theme:** 2. Clean, Green & Sustainable.
  - b. **Strategic Objective:** 2.1. To protect and enhance our natural environment.
  - c. **Strategic Initiative:** 2.1.1. Reserves Management.

**In Brief:**

- The City has been approached with an offer of funding from South Coast Natural Resource Management.
- The funding totals \$28,529.
- An identified project applicable to this funding is to conduct community fauna surveys within the Mt Melville reserve.
- The report recommends the offer be accepted and the fauna surveys proceed.

**RECOMMENDATION**

**WS033: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council ACCEPT the offer of funding totalling \$28,529 from South Coast Natural Resource Management for community fauna surveys within Mt Melville reserve.**

WS033: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON  
SECONDED: COUNCILLOR BOWLES

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 4-0



**WS033: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council ACCEPT the offer of funding totalling \$28,529 from South Coast Natural Resource Management for community fauna surveys within Mt Melville reserve.

**BACKGROUND**

2. The City of Albany is currently undertaking fuel management planning for a number of high risk areas under its management. Part of this planning process is to consider the how to minimise the impact on the environmental values in these areas. In 2012, the City of Albany engaged a consultant to produce a report on the distribution and fire response of known fauna on City of Albany managed land on Mt Melville. One outcome of this report was that there is very little recorded information about the fauna on Mt Melville, and it was recommended that a targeted fauna survey be undertaken to collect this important information.
3. The City of Albany submitted an application to the State Natural Resource Management Office in July 2013 for a community fauna survey within Mt Melville reserve. This original application was not successful.
4. However, in February of 2014, SCNRM approached the City with the offer of \$28,529 to fund the Mt Melville community fauna survey project.

**DISCUSSION**

5. Currently there is very little data on what native fauna occur within the Mt Melville reserve. However, due to the known vegetation communities, it is highly likely that up to four State and National listed threatened fauna species may occur within the reserve. The fauna species to be targeted during the survey include the Western Ring Tail Possum, bandicoot, phascogale, cockatoos, reptiles and invertebrates .The fauna survey will be conducted in summer, autumn and spring, and will involve applying a range of techniques, such as spot lighting, motion cameras, pit fall and Elliot traps and the installation and checking of nest boxes.
6. This project also presents an opportunity to educate residents on the regions wonderful native fauna and to increase appreciation of bushland areas. Opportunities for interest groups and the general public to be involved in this project will be organised and advertised. Project partners include Land for Wildlife (Department of Parks and Wildlife), Bushcarers Group, Albany Young Naturalist Club (Western Australian Museum), South Coast Natural Resource Management Indigenous Officers, Birdlife Australia and other community members.
7. Mt Melville currently has a number of competing management issues (eg fire management, recreation / trail management and bushcare). All information gathered as a part of this project, will be used by the City to better inform future management actions on Mt Melville in relation to these issues.
8. A final report will be produced to document the results of the project. The project must be completed by June 2015.

## GOVERNMENT & PUBLIC CONSULTATION

9. This project was referred to the South West Aboriginal Land and Sea Council for consideration at their Future Acts Sub-Committee meeting on 13 August 2013 and no concerns were raised.

## STATUTORY IMPLICATIONS

10. 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:
- Is incurred in a financial year before the adoption of the annual budget by the local government
  - Is authorised in advance by a resolution (absolute majority required) or
  - Is authorised in advance by the Mayor in an emergency.

## POLICY IMPLICATIONS

11. There are no policy implications relating to this matter.

## RISK IDENTIFICATION & MITIGATION

12. The risk identification and categorisation relies on the City's [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Project is not approved and project does not go ahead.</i>	<i>Almost certain</i>	<i>Minor</i>	<i>Medium</i>	<i>Mitigation entirely dependent on Council.</i>
<i>Potential to harm protected species when completing maintenance works</i>	<i>possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Consultants report would provide necessary information to protect species</i>

## FINANCIAL IMPLICATIONS

13. The City's contribution to this project comprises in-kind staff time as project manager, as well as \$5,000 monetary component from Reserves Planning 2013/14 budget. The project budget totals \$32,529.

## LEGAL IMPLICATIONS

14. There are no legal implications relating to this matter.

## ENVIRONMENTAL CONSIDERATIONS

15. An internal City of Albany environmental assessment will be completed once the project is fully scoped and the exact locations of pit traps have been decided. However, it is anticipated that no major concerns will be raised.
16. The fauna consultant will be responsible for applying for a fauna licence from Department of Park and Wildlife (DPaW) and obtaining ethics approval.

## **ALTERNATE OPTIONS**

17. The Council may elect to not accept the funding of \$28,529 from SCNRM.

## **SUMMARY CONCLUSION**

18. This project will allow for 18 months of community fauna surveys on Mount Melville. This information will then be used by the City to make future management decisions for the area in relation to fire management and bushcare and revegetation activities.

<b>Consulted References</b>	:	Nil
<b>File Number (Name of Ward)</b>	:	EM.PLA.4
<b>Previous Reference</b>	:	Nil

## **WS034: DROME ROAD PARKING SCHEME**

<b>Land Description</b>	: Drome Road verge, between Albany Highway and Andorra Road
<b>Owner</b>	: City of Albany
<b>Attachments</b>	: Site Diagram
<b>Responsible Officer(s)</b>	: Executive Director Works and Services (M Thomson)

**Responsible Officer's Signature:**



### **STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the [City of Albany Strategic Community Plan 2023](#) and [Corporate Business Plan 2013-2017](#):
  - a. **Key Theme:** 3. A connected built environment.
  - b. **Strategic Objective:** 3.1. To advocate, plan and build friendly and connected communities.
  - c. **Strategic Initiative:** 3.1.2. Parking and Traffic Modelling.

#### **In Brief:**

- Complaints have been received regarding verge parking in this location
- Verge parking in this location obstructs sightlines for vehicles exiting Andorra Road, and exiting adjacent properties
- Vehicles observed to be causing these issues appear to be either customers or patrons of nearby commercial premises
- There is alternative parking nearby for these patrons
- Investigations have concluded that verge parking at this location is neither safe nor appropriate
- Verge parking is allowable with the consent of the adjacent landowner, unless marked as a “no standing”, or “no stopping” area by Council
- 

### **RECOMMENDATION**

**WS034: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council:**

1. **CONSULT** with affected residents regarding the installation of the parking scheme as per the attached plan, and
2. **REPORT** back to Council on a preferred plan of action, based on the results of the public consultation

**WS034: COMMITTEE RECOMMENDATION**

MOVED: COUNCILLOR GREGSON  
SECONDED: COUNCILLOR BOWLES

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 4-0

**WS034: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council:

1. CONSULT with affected residents regarding the installation of the parking scheme as per the attached plan, and
2. REPORT back to Council on a preferred plan of action, based on the results of the public consultation

## **BACKGROUND**

2. The section of road verge in question is frequently used as parking for commercial vehicle operators who make use of nearby accommodation, and as overflow parking for nearby premises. Complaints have been received regarding parked vehicles obstructing sightlines for normal traffic, and traffic exiting nearby premises.
3. A site inspection was carried out by Works and Services staff, and it was determined that verge parking was not appropriate or safe in this location, and that alternative parking arrangements were available.

## **DISCUSSION**

4. This situation has been discussed internally with Infrastructure and Rangers staff, with the consensus being that verge parking in this location is cause for concern, and requires clear delineation to discourage this occurring.
5. While verge parking is ordinarily allowable with the consent of the adjacent landowner, in situations where verge parking obstructs sightlines for road users and interrupts access to properties, Council is able to prevent parking where safety is a concern.

## **GOVERNMENT & PUBLIC CONSULTATION**

6. No consultation has been undertaken, although it is recommended that a period of public consultation be undertaken prior to a decision being made whether to install the no-stopping signs.

## **STATUTORY IMPLICATIONS**

7. Clause 1.8 of the City's Parking and Parking Facilities Amendment Local Law 2012 stipulates inter alia:

*"The local government may, by resolution, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle, any class of vehicles or any class of drivers in any part of the parking region but must do so consistently with the provisions of this Local Law."*

## POLICY IMPLICATIONS

8. Following the adoption of the Parking Scheme, amendments may be approved under delegated authority. A policy is being drafted for future Council consideration to provide some controls around the current delegation.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Council does not support installation of "no stopping" zone, leading to vehicle crash</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Council supports installation</i>
<i>Perception of a lack of community engagement</i>	<i>Likely</i>	<i>Moderate</i>	<i>Low</i>	<i>Works and Services in conjunction with Media will utilise multiple communication mediums (print, face to face) to consult with the community to seek engagement and feedback.</i>
<i>Installation of signage incorrectly results in contested fines</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Signage to be installed strictly in adherence to Local Laws and Australian Standards</i>

## FINANCIAL IMPLICATIONS

10. Costs for installation of signage will be funded internally, with the signage placed on the City's register for capital maintenance and replacement.

## LEGAL IMPLICATIONS

11. The new scheme must be implemented in accordance with the City of Albany *Parking and Parking Facilities Amendment Local Law 2012*.
12. Once adopted by Council, public notice must be given prior to enforcement of new or amended parking limitations

## ENVIRONMENTAL CONSIDERATIONS

13. Nil.

## ALTERNATE OPTIONS

14. Council may defer this decision if desired, for further investigation.

## SUMMARY CONCLUSION

In order to enforce the changes and affect the changeover of signage in accordance with the new scheme, Council needs to adopt the scheme

<b>Consulted References</b>	:	Parking & Parking Facilities Amendment Local Law 2012
<b>File Number (Name of Ward)</b>	:	CU.PRA.5
<b>Previous Reference</b>	:	

**WS035: FOX WAY / BURT STREET / THOMAS STREET PARKING  
SCHEME**

**Land Description** : Burt Street / Fox Way / Thomas Street  
**Owner** : City of Albany  
**Attachments** : Location Plan  
**Responsible Officer(s):** : Executive Director Works and Services (M Thomson)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the [City of Albany Strategic Community Plan 2023](#) and [Corporate Business Plan 2013-2017](#):
  - a. **Key Theme:** 3. A connected built environment.
  - b. **Strategic Objective:** 3.1. To advocate, plan and build friendly and connected communities.
  - c. **Strategic Initiative:** 3.1.2. Parking and Traffic Modelling.

**In Brief:**

- Complaints have been received regarding indiscriminate parking of vehicles at the end of the school day when students are being collected.
- Parking in this location obstructs sightlines for vehicles travelling along Thomas Street and Burt Street, as well as vehicles turning at the intersection of Burt Street and Fox Way. Sightlines are also obstructed for vehicles exiting adjacent properties
- Poorly parked vehicles can also be a hazard for pedestrians as they may be forced to walk in the road to get past.

**RECOMMENDATION**

**WS035: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council:**

1. **CONSULT** with the Albany Senior High School and affected residents regarding the installation of the parking scheme as per the attached plan, and
2. **REPORT** back to Council on a preferred plan of action, based on the results of the public consultation

**WS035: COMMITTEE RECOMMENDATION**

MOVED: COUNCILLOR BOWLES  
SECONDED COUNCILLOR DOWLING

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 4-0

**WS035: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council:

1. CONSULT with the Albany Senior High School and affected residents regarding the installation of the parking scheme as per the attached plan, and
2. REPORT back to Council on a preferred plan of action, based on the results of the public consultation

**BACKGROUND**

1. The section of road in question is frequently used as parking by those collecting students from Albany Senior High School. Complaints have been received regarding parked vehicles obstructing sightlines for traffic along Thomas Street and Burt Street, the intersection of Burt Street with Fox Way and traffic exiting nearby premises.
2. A site inspection was carried out by Works & Services staff, and it was determined that parking was not appropriate or safe in a number of locations within these streets.

**DISCUSSION**

3. This situation has been discussed internally with Infrastructure and Rangers staff, with the consensus being that indiscriminate parking in this location is a cause of concern for both road users and pedestrians, and requires clear delineation to discourage this occurring.

**GOVERNMENT & PUBLIC CONSULTATION**

4. No consultation has been conducted, although it is recommended that a period of public consultation be undertaken prior to a decision being made whether to install the no-stopping signs.

**STATUTORY IMPLICATIONS**

5. Clause 1.8 of the City's Parking and Parking Facilities Amendment Local Law 2012 stipulates inter alia:
  - a. *"The local government may, by resolution, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle, any class of vehicles or any class of drivers in any part of the parking region but must do so consistently with the provisions of this Local Law."*



## POLICY IMPLICATIONS

6. Following the adoption of the Parking Scheme, amendments may be approved under delegated authority. A policy is being drafted for future Council consideration to provide some controls around the current delegation.

## RISK IDENTIFICATION & MITIGATION

7. The risk identification and categorisation relies on the City's [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Council does not support installation of "no stopping" zone, leading to vehicle crash</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Council supports installation</i>
<i>Perception of a lack of community engagement</i>	<i>Likely</i>	<i>Moderate</i>	<i>Low</i>	<i>Works and Services in conjunction with Media will utilise multiple communication mediums (print, face to face) to consult with the community to seek engagement and feedback.</i>
<i>Installation of signage incorrectly results in contested fines</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Signage to be installed strictly in adherence to Local Laws and Australian Standards</i>

## FINANCIAL IMPLICATIONS

8. Costs for installation of signage will be funded internally, with the signage placed on the City's register for capital maintenance and replacement.

## LEGAL IMPLICATIONS

9. The new scheme must be implemented in accordance with the City of Albany *Parking and Parking Facilities Amendment Local Law 2012*.
10. Once adopted by Council, public notice must be given prior to enforcement of new or amended parking limitations.

## ENVIRONMENTAL CONSIDERATIONS

11. Nil.

## ALTERNATE OPTIONS

12. Council may defer this decision if desired, for further investigation.

## **SUMMARY CONCLUSION**

13. In order to enforce the changes and affect the changeover of signage in accordance with the new scheme, Council needs to adopt the scheme.

<b>Consulted References</b>	:	Local Government Act 1995 Local Government (Functions and General) Regulations 1996 Access & Inclusion Plan 2012-2017 Parking & Parking Facilities Amendment Local Law 2012
<b>File Number (Name of Ward)</b>	:	CU.PRA.68 (Fredrickstown)
<b>Previous Reference</b>	:	

## WS036: CITY OF ALBANY WASTE LOCAL LAW 2014

<b>Proponent</b>	: City of Albany
<b>Owner</b>	: City of Albany
<b>Attachments</b>	: Nil
<b>Councillor Workstation</b>	: Nil
<b>Responsible Officer(s)</b>	: Executive Director Works and Services (M Thomson)

**Responsible Officer's Signature:**



### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2017:
  - a. **Key Theme:** 2. Clean, Green and Sustainable
  - b. **Strategic Objective:** 2.3 To advocate for and support “green” initiatives within our region
  - c. **Strategic Initiative:** 2.3.1 Waste Management

#### In Brief:

- To accommodate changes to the City's waste collection boundaries, current Waste Local Laws need to be reviewed.
- The City's waste local laws are currently contained within the City of Albany Health Local Laws 2001.
- The Waste Avoidance and Resource Recovery Act 2007 has enabled local government to separate its waste local laws from the Health Local Laws where they were formerly held.
- Council are required to endorse changes to Local Laws prior to them being submitted to State government for review and approval.

#### Purpose, Effect:

**Purpose:** The purpose of the local law is to provide for the regulation, control and management of activities and issues relating to waste collection, recycling, reuse and disposal within the district of the City of Albany.

**Effect:** The effect of the local law is to control activities and manage influences on waste collection, recycling, reuse and disposal within the district of the City of Albany.

## RECOMMENDATION

**WS036: RESPONSIBLE OFFICER RECOMMENDATION  
VOTING REQUIREMENT:SIMPLE MAJORITY**

**THAT the MAKING of the City of Albany Waste Management Local Law 2014 is DEFERRED for further review by the Works and Services Committee.**

### **Officer's Reason (Executive Director Works and Services):**

From time to time, the Joint Standing Committee on Delegated Legislation has cause to prepare reports on a specific local law of a local government. An additional governance check has identified a number of problematic clauses contained within the local law that need to be addressed prior to Council initiating the MAKING process.

**WS036: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council gives Public Notice of its intention to make the City of Albany Waste Management Local Law 2014, in accordance with section 3.12 of the *Local Government Act 1995*.

**WS036: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR BOWLES  
SECONDED: COUNCILLOR GREGSON**

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 5-0

**WS036: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council gives Public Notice of its intention to make the City of Albany Waste Management Local Law 2014, in accordance with section 3.12 of the *Local Government Act 1995*.

## BACKGROUND

2. A review of the City's waste collection boundaries has indicated that the current waste local laws are prescriptive in their description of waste collection areas and limits the opportunity to expand the City's collection service.

## DISCUSSION

3. The City's current waste local laws, contained within its Health Local Laws 2001, require amendment in order that domestic waste collection services can be updated and expanded to service the City's residential growth.
4. The Waste Avoidance and Resource Recovery Act 2007 (WARR Act 2007) section 61 (1) (a) provides for local governments to develop waste local laws independent to health local

laws where, in most local governments, they are currently held. Waste laws developed under the powers of the WARR Act 2007 provide local government's greater flexibility in the services they provide and the fees that they administer.

5. Waste management is a critical service and it is important that a framework of law is applied to ensure the service is effectively delivered.
6. City staff have used the opportunity of its waste collection boundary and the flexibility of the WARR Act 2007 to appraise all of the waste local laws and modernise the entire document.
7. The proposed Waste Local Law 2014 provides the City with the ability to make ongoing changes to its collection boundaries, update its capability to administer its waste services, stipulates the use and maintenance of domestic bins as well as the types of waste the public can deposit when they participate in the kerbside waste collection.
8. Further additions to the Waste Local Law incorporate the management of the City's waste facilities providing staff with the framework to better supervise the public's use of the sites.
9. The process for the adoption of new local laws requires Council to endorse the advertising of the local law for a minimum period of six weeks. At the completion of the advertising period Council are advised of the submissions received and is requested to adopt the local law.

## **GOVERNMENT & PUBLIC CONSULTATION**

10. If the proposed local law is adopted for advertising it will be open for public comment for a period of six weeks.
11. The Local Law will be referred to the Minister of Environment and the Minister for Local Government for comment.

## **STATUTORY IMPLICATIONS**

12. The proposed City of Albany Waste Law 2014 is developed under section 64 of the Waste Avoidance and Resource Recovery Act 2007. However, the local law making process still needs to meet the requirements as prescribed in section 3.12 of the Local Government Act 1995.

Part 4 Waste Food and Refuse will be revoked from the City's Health Local Laws 2001 as part of the process of the adoption of the new City of Albany Waste Local law 2014.

## **POLICY IMPLICATIONS**

13. There are no waste policy implications related to this item.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>The current local law nominates, by diagram, a waste collection area which has no scope to add potential services that fall outside the nominated area. If City of Albany Waste Local Laws 2014 is not adopted by Council it will not have the ability to provide waste collection services to homeowners in developments beyond its current collection area.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>Present to Council updated waste local laws for their endorsement.  Submit new laws to state government for approval.  Amend the City's waste collection boundaries.</i>

## FINANCIAL IMPLICATIONS

15. The City will bear the costs associated with the drafting, gazettal and advertising of the proposed Waste Local Law. Costs are estimated to be \$10,000 with provision made within the 2013/14 budget line item 1313670 Manage Waste Minimisation Operations.

## LEGAL IMPLICATIONS

16. The City is unable to make changes to its waste collection areas unless amendments are made to its relevant local laws.

## ENVIRONMENTAL CONSIDERATIONS

17. Provisions have been transferred from the Health Act 1911, concerning health and environmental issues related to the waste management services provided by Local Government, to the WARR Act 2007. The proposed local law developed under the WARR Act 2007 provides a framework for the City to manage its waste collection and disposal services to benefit community health and the environment.

## ALTERNATE OPTIONS

18. Council may choose to not accept the proposed City of Albany Waste Local Law 2014.

## SUMMARY CONCLUSION

The City's waste local laws currently covered in its Health Local Law 2001 require updating to allow for waste collection boundary changes and allow for improved management of its waste facilities.

19. Local Government is now able to make local laws, regarding the provision of waste management services, under the WARR Act 2007.
20. As is required by section 3.12 of the Local Government Act 1995 and section 64 of the waste Avoidance and Recovery Act 2007 Council approval is required to determine the making of a new Local Law.

21. Council are requested to endorse the advertising of the proposed Waste Local Law 2014 for community consultation. Council, considering community input, would then be requested to adopt the proposed Waste Local Law at a later Council meeting.

<b>Consulted References</b>	:	Local Government Act 1995 Waste Avoidance and Resource Recovery Act 2007 City of Albany Health Local Laws 2001 Health Act 1911
<b>File Number (Name of Ward)</b>	:	All Wards
<b>Previous Reference</b>	:	OCM 18/12/2001 - Item 12.2.6

**WS037: FINANCIAL EXPENDITURE AND WORKS PROGRESS REPORTING**

**Proponent** : City of Albany  
**Attachments** : Works and Services Capital Works Progress Report  
(2 attachments).  
**Responsible Officer(s):** : Executive Director Works & Services (M Thomson)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the [City of Albany Strategic Community Plan 2023](#) and [Corporate Business Plan 2013-2017](#):
  - a. **Key Theme:** 2. Clean, Green and Sustainable.
  - b. **Strategic Objective:** 2.2. To maintain and renew city assets in a sustainable manner.
  - c. **Strategic Initiative:** 2.2.2. Project Reporting.

**In Brief:**

- Improved Capital Works Project reporting is a strategic initiative committed to by the Works and Services directorate.
- The report as at March 31, 2014 is attached.

**RECOMMENDATION**

**WS037: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**That Council NOTE the Works and Services capital works progress report.**

WS037: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON  
SECONDED: COUNCILLOR BOWLES

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 5-0

WS037: RESPONSIBLE OFFICER RECOMMENDATION

That Council NOTE the Works and Services capital works progress report.



**BACKGROUND**

- The attached report, combining the reporting of both actual expenditure and actual progress of work against planned in the same cost-time relationship chart is prepared monthly to update elected members.

**DISCUSSION**

- The report draws information from the annual budget, the Works & Services Infrastructure works schedule and monthly financial reports utilising actual data.

**GOVERNMENT & PUBLIC CONSULTATION**

- Not required – internal reporting requirement only.

**STATUTORY IMPLICATIONS**

- Not applicable

**POLICY IMPLICATIONS**

- Improved project reporting underpins good asset management practices.

**RISK IDENTIFICATION & MITIGATION**

- The risk identification and categorisation relies on the City's [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Project cost overruns</i>	<i>Possible</i>	<i>Significant</i>	<i>Medium</i>	<i>Reporting will identify trends toward budget overruns allowing for intervention in advance.</i>
<i>Project time overruns</i>	<i>Possible</i>	<i>Significant</i>	<i>Medium</i>	<i>Reporting will identify overall schedule performance and trends allowing for early interventions and implementation corrective strategies.</i>
<i>Misunderstanding/misinterpretation of reporting documents.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Officer available to explain reports and how to interpret.</i>
<i>Lack of action following reported expenditure and/or progress.</i>	<i>Unlikely</i>	<i>Extreme</i>	<i>High</i>	<i>Ensure that cost and programme variations are investigated and resolved in a timely manner.</i>

**FINANCIAL IMPLICATIONS**

- The reporting will highlight budget variances early on resulting in issues being dealt with in a timely manner.

**LEGAL IMPLICATIONS**

- Not applicable

**ENVIRONMENTAL CONSIDERATIONS**

- Not applicable

**ALTERNATE OPTIONS**

11. Not applicable.

**SUMMARY CONCLUSION**

12. The attached Earned Value reporting documentation reflects the variances of cost and time most effectively and will ensure that Council is apprised of the progress of works at all times.

<b>Consulted References</b>	:	Not applicable
<b>File Number (Name of Ward)</b>	:	Not applicable
<b>Previous Reference</b>	:	Not applicable

**PD029: INDUSTRY – EXTRACTIVE (SAND)**

<b>Land Description</b>	: 84 Prideaux Road (lot 3 & 662) Lower King.
<b>Proponent</b>	: Jim Byrne – Jim’s Backhoes
<b>Owner</b>	: TC Kiddie
<b>Business Entity Name</b>	: Jim’s Backhoes
<b>Attachments</b>	: Site Plan Copy of Submissions
<b>Councillor Workstation</b>	: Copy of submissions
<b>Responsible Officer(s)</b>	: Executive Director Planning and Development Services (D Putland)

Responsible Officer’s Signature:



**Maps and Diagrams:**

- Map of objections received.
- Map representing area to be used for extractive industry.

**In Brief:**

- Council is asked to consider an application for Planning Scheme Consent for an Extractive Industry (Sand) at 84 Prideaux Road, Lower King.
- The application has been advertised for public comment and referred to surrounding residents.
- Three letters of objections and one in support of the application have been received.
- It is due to the nature of these objections that the matter is being referred to Council for determination.
- Staff recommend that Council support the proposal

**RECOMMENDATION**

**ITEM PD029: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for development (Extractive Industry) at 84 Prideaux Road, Lower King. Subject to the following conditions:**

- **Top soil to a depth of 150mm (unless otherwise approved by the Director Works and Services) is to be removed from the extraction area and is to be stored on-site for use in later rehabilitation.**
- **A minimum of 150mm of top soil is to be left above any hard surface (i.e clay/gravel) unless a lesser amount is approved by the Director Works and Services.**
- **The applicant will be responsible for the repair of any undue damage to Prideaux Road caused by the extraction operations.**
- **The pit shall be suitably drained. No direct discharge shall occur from the pit into a watercourse without the prior approval of the Department of Water.**
- **The crossover shall be upgraded (minimum 2 coat seal) to the City of Albany's specification, levels and satisfaction.**
- **A 'Permit for Vehicle Crossover Construction' is required from the City of Albany prior to any work being carried out within the road reserve.**
- **A bond/bank guarantee of \$800 shall be lodged on a per hectare basis with Council for remediation work if required.**
- **Operation of the pit shall be restricted to the hours of: 7.00am-6.00pm Monday to Friday, 8.00am-5.00pm Saturday. No operation at all on Sundays or Public Holidays.**
- **Trucks shall be restricted from travelling on Prideaux Road and Bon Accord Road during the following times of 7.45am-8.00am and 4.00pm-4.15pm Monday to Friday to avoid potential conflict with school bus operations.**
- **The site is to be suitably rehabilitated and recontoured on a per hectare basis including rebattering of banks and reseeded and stabilising old extraction areas.**
- **The operation of the pit shall be contained within that area indicated on plans submitted with the application.**
- **The extraction pit being screened from view from the surrounding lots and adjacent road by the use of suitable trees and shrubs.**
- **The pit shall be suitably drained. No direct discharge shall occur from the pit into a watercourse within the prior approval of the Department of Water.**
- **No remnant vegetation shall be removed as part of this extraction operation.**
- **No blasting of material is permitted as part of extraction operations, unless separate approval is granted by Council.**
- **Only one hectare of the pit shall be open at any one time.**

PD029: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON  
SECONDED: COUNCILLOR GREGSON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

ITEM PD029: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for development (Extractive Industry) at 84 Prideaux Road, Lower King. Subject to the following conditions:

- Top soil to a depth of 150mm (unless otherwise approved by the Director Works and Services) is to be removed from the extraction area and is to be stored on-site for use in later rehabilitation.
- A minimum of 150mm of top soil is to be left above any hard surface (i.e clay/gravel) unless a lesser amount is approved by the Director Works and Services.
- The applicant will be responsible for the repair of any undue damage to Prideaux Road caused by the extraction operations.
- The pit shall be suitably drained. No direct discharge shall occur from the pit into a watercourse without the prior approval of the Department of Water.
- The crossover shall be upgraded (minimum 2 coat seal) to the City of Albany's specification, levels and satisfaction.
- A 'Permit for Vehicle Crossover Construction' is required from the City of Albany prior to any work being carried out within the road reserve.
- A bond/bank guarantee of \$800 shall be lodged on a per hectare basis with Council for remediation work if required.
- Operation of the pit shall be restricted to the hours of: 7.00-6.00pm Monday to Friday, 7.00am -5.00pm Saturday. No operation at all on Sundays or Public Holidays.
- The site is to be suitably rehabilitated and recontoured on a per hectare basis including rebattering of banks and reseeded and stabilising old extraction areas.
- The operation of the pit shall be contained within that area indicated on plans submitted with the application.
- The extraction pit being screened from view from the surrounding lots and adjacent road by the use of suitable trees and shrubs.
- The pit shall be suitably drained. No direct discharge shall occur from the pit into a watercourse within the prior approval of the Department of Water.
- No remnant vegetation shall be removed as part of this extraction operation.
- No blasting of material is permitted as part of extraction operations, unless separate approval is granted by Council.
- Only one hectare of the pit shall be open at any one time.

## STRATEGIC IMPLICATIONS

1. This item relates directly to the following element of the *Community Strategic Plan “Albany 2023”*:
  - a. **Key Theme:** 1. Smart, Prosperous & Growing
  - b. **Strategic Objective:** 1.1 To foster education, training and employment opportunities that support economic development.
2. Council’s decision on the proposal should be consistent with the objectives of the *Albany Local Planning Strategy (ALPS)* as the principal land use planning strategy for the City.
3. Section 8.5.3 – Industry sets the following Strategic Objective:  
*“Provide the necessary land and supporting infrastructure to maintain an adequate supply and range of serviced industrial land in appropriate locations.”*

The ALPS expands on this by referring to a number of regionally important industrial sites, then states that *“other industrial land within Albany is constrained by the location of sites, environmental issues, accessibility, level of services and capacity to support a range of industrial activities.”*

## BACKGROUND

4. The subject land lies to the east side of Prideaux Road, approximately 11km North West of the Albany city centre. The site comprises of two lots which have a combined area of approximately 95ha. The lot slopes west to east, with a large pocket of trees located centrally on the lot.
5. The site is zoned ‘Rural’ under City of Albany Town Planning Scheme No. 3 ‘the Scheme’ and is bounded by Special Residential zoned land to the South West and Rural zoned land to the North East.
6. The proposal seeks to establish an extractive industry (sand) on the subject lots.
7. The proposal was advertised for public comment, in accordance with Clause 5.1.2.3 of *Town Planning Scheme No. 3*, between 16 January, 2014 and 10 February, 2014.
8. Council is now requested to consider submissions received during the public advertising period and determine whether to grant Planning Scheme Consent for the proposed extractive industry.

## DISCUSSION

9. As explained above, the proposal seeks to extract sand from the subject site and truck the sand off site for use within the Albany area.
10. The proposal is defined as an ‘Industry - Extractive’ for purposes of assessment under Town Planning Scheme No. 3. An ‘Industry - Extractive’ is classified as an ‘AA’ use within the Rural zone.
11. The total size of the proposed extraction area is 2.25ha. The area is centrally located on the site, with setbacks from the boundaries of 275m to the north, 530m to the east, 257m to the south and 725m to the west.
12. The proponents have provided an outline of how the proposed extractive industry will operate, which is summarised as below.

13. The applicant has advised that at full capacity the site would generate a maximum of ten vehicle movements per a day. These vehicle movements would be undertaken by a total of two trucks.
14. The topsoil is to be stripped and stockpiled with a loader and re-laid once extraction of the sand is complete.
15. It is proposed to progressively rehabilitate the site back to the existing state of pasture once sand has been extracted.
16. The primary assessment criterion for the application is the City of Albany *Extractive Industry And Mining* policy 'the policy'. Compliance with the policy is discussed below.
17. The proposal is classified as a class 2 extractive industry under the policy. Class 2 extractive industries have site extraction areas of between 0.75 and 3ha with a maximum depth of 3m.
18. There are a number of general provisions which are outlined in the policy that are pertinent to the determination of the assessment.
19. It is stated that extraction is not to occur within 200m of a residence not located on the subject property. The proposal is compliant with this provision as the closest residence is 375m.
20. In terms of setbacks, the policy dictates that buffer distances are to be contained within the property in accordance with the setbacks outlined within the Environmental Protection Authority Guidance Statement Two. In this case Guidance Statement Two provides a distance of 250m. The proposal is compliant with this policy provision.
21. The policy is compliant with the provision that requires pits be located 30m from any public road.
22. The proposed pit area complies with the requirement that it be set back a minimum of 50m from a watercourse or body.
23. The applicant originally proposed to locate the internal access track along the southern boundary of the property. This route would run along the back of a number of the adjoining Special rural properties to the south. In order to mitigate any potential noise, dust and general amenity concerns the applicant has advised willingness to relocate the access track towards the north west side of the property onto Prideaux Road.
24. Extractive industries are subject to a yearly licence renewal. This process ensures work is being undertaken in accordance with conditions of approval and that rehabilitation work is occurring correctly.
25. While the proposed land use is permissible in the 'Rural' zone, submissions received raised concerns over the suitability of the location. Many of the submissions also relate to perceived effects on amenity that could result from the proposed extractive industry.
26. Four written submissions were received during the public consultation period. Three of the submissions object to the proposal, while one is in support. The details of the submissions are summarised in the public consultation section below.
27. The negative effect of the proposed extractive industry on property values was identified in the submissions. However, it has been well established through planning law that property values are not a valid consideration when assessing development applications as it is outside of the scope of assessment of the Matters to be considered. If Council wishes to discuss issues that are outside of the scope of the Matters to be Considered, they have discretion to do so.

28. Noise from the proposed extractive industry was raised consistently during the consultation period. The concerns primarily relate to the noise generated by truck movements and/or the removal of the sand from the pit area. In response to these concerns, the applicant has agreed to relocate the internal access track further north on the property. The number of vehicle movements proposed per a day (10) is also considered to be minimal in the context of extractive industries. As mentioned previously the proposal meets both the City of Albany policy setbacks and also those of the Environmental Protection Authority. In addition to the above it requirements, any work on the site would also be subject to ongoing compliance with the *Environmental Protection (Noise) Regulations 1997*.
29. The impact of additional traffic and the suitability of the existing road system in the area was also an issue identified during the consultation period. Submissions have indicated that Prideaux and Bon Accord roads are not adequately constructed to cater for heavy traffic and have identified potential for conflict with pedestrians and cyclists. The submissions contend that these roads will deteriorate rapidly with frequent additional use by heavy loads. Officers recommend a condition requiring the proponent to rectify any damage to Prideaux road should be applied. As mentioned previously, it is necessary to note that the number of vehicle movements proposed per a day (10) is considered to be minimal in the context of extractive industries.
30. The potential for conflict between trucks and school buses was also raised. In order to mitigate the issue, it is common practice to apply a condition requiring extractive industry operators to liaise with school bus operators to commence a dialogue and establish a schedule to avoid potential conflict.
31. Operational hours are applied to extractive industry proposals as a condition of consent. The standards hours applied are generally 7.00-6.00pm Monday to Friday, 7.00am -5.00pm Saturday. No operation will be permitted on Sundays or Public Holidays. Council may also wish to consider of restricting hours of operation on Saturdays in order to balance amenity concerns of residents with the expectations of the proponents.

#### **GOVERNMENT & PUBLIC CONSULTATION**

32. Consultation with State Government Departments was not undertaken as it was not required.
33. A 21 day public consultation was undertaken in accordance with the Town Planning Scheme requirements.
34. The proposal was advertised in accordance with Clause 5.1.2.3 of *Town Planning Scheme No. 3* from 16 January 2014 to 10 February 2014. An advertisement was placed in the public notice section of the Albany & Great Southern Weekender. The City also wrote directly to eight surrounding landowners, seeking their comments, and placed a site notice on the road verge at the end of the driveway into the property.
35. Three letters of objection were received in response to the consultation. The broad issues and concerns raised in the objections relate to:
  - Land use conflict
  - Property values
  - Traffic Safety
  - Impact on amenity
  - Noise
  - Infrastructure damage
  - Operational hours



36. The matters raised in the objection have been discussed and addressed in the preceding discussion section of the report.

### STATUTORY IMPLICATIONS

37. Clause 5.4 of *Town Planning Scheme No. 3* specifies the Matters to be Considered by Council and states that:

*“The Council in considering an application for planning consent is to have due regard to such of the following matters as are in the opinion of the Council relevant to the use or development the subject of the application:*

- (a) the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme Area;*
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;*
- (i) the compatibility of a use or development with its setting;*
- (j) any social issues that have an effect on the amenity of the locality;*
- (l) the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;*
- (n) the preservation of the amenity of the locality;*
- (o) the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (p) whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- (q) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) whether adequate provision has been made for access by disabled persons;*
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (y) any relevant submission received on the application;*
- (za) potential impacts of noise, dust light, risk and other pollutants on surrounding land uses;  
and*
- (zb) any other planning consideration the Council considers relevant.”*

38. These relevant matters have been considered and addressed by Staff in arriving at the recommendation.

**POLICY IMPLICATIONS**

39. This matter has no direct planning policy implications.

**RISK IDENTIFICATION & MITIGATION**

40. To ensure appropriate decision are made with quality information, stakeholder consultation and research, Council must be informed of the risk the City faces as a result of its decision making. Risk identification and mitigation advice assists Council maximise opportunity and minimise risks and hazards that may impact upon the effective and efficient management of City assets, functions and services.
41. The risk identification and categorisation relies on the City's [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Approving the proposed use could give rise to unacceptable detrimental impacts on the amenity of the area.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Mitigation of impacts to be achieved through adoption and enforcement of conditions.</i>

**FINANCIAL IMPLICATIONS**

42. All costs associated with the development will be borne by the proponent.
43. However, should the proponents be aggrieved by Council's decision or any attached 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**

44. The Council is at liberty to use its discretion to approve or refuse the proposal. This application is being assessed on its individual merits and will not set a general precedent for future development of this or any other site.
45. The proponent has the right to seek a review of the Council's decision, including any conditions attached to an approval. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

**ENVIRONMENTAL CONSIDERATIONS**

46. There are no environmental considerations pertaining to the application.

**ALTERNATE OPTIONS**

47. Council may determine that the proposed use is unacceptable and may resolve to refuse the application. The Council must be aware of the short or long term ramifications of any alternate decisions.

**SUMMARY CONCLUSION**

- 48. The application seeks Planning Scheme Consent to have an extractive industry on the site.
- 49. The proposal has been advertised as required, with 3 objections received in response and one submission received in support.
- 50. The applicant agreed to modify the internal access track as required.
- 51. The proposal is at a small scale and will be located centrally on the subject site within required buffer setbacks. On this basis it is considered that as the proposal can be appropriately managed through ongoing conditions and the yearly licence renewal process.
- 52. Staff recommend the proposal be approved.

<b>Consulted References</b>	:	<i>City of Albany Town Planning Scheme No. 3; City of Albany Extractive Industries and Mining Policy; Environmental Protection Authority Guidance for the Assessment of Environmental Factors – Separation Distances between Industrial and Sensitive Land Uses. Environmental Protection (Noise) Regulations 1997.</i>
<b>File Number (Name of Ward)</b>	:	A5831 (Kalgan Ward)
<b>Previous Reference</b>	:	Not Applicable

**PD030: PLANNING AND BUILDING REPORTS MARCH 2014**

**Proponent** : City of Albany  
**Attachment** : Planning and Building Reports March 2014  
**Responsible Officer(s):** : Executive Director Planning & Development Services  
(D Putland)

**Responsible Officer's Signature:**



**RECOMMENDATION**

**PD030: RESPONSIBLE OFFICER RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council NOTE the Planning and Building Reports for March 2014.**

14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**
15. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.**
16. **REPORTS OF CITY OFFICERS**
17. **MEETING CLOSED TO PUBLIC.**
18. **CLOSURE.**