



MINUTES

CORPORATE SERVICES AND FINANCE COMMITTEE MEETING

14 October 2014

5.30pm

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.

TERMS OF REFERENCE

(1) Function:

The Corporate Services and Finance Committee will monitor and comment on the financial health and strategies of Council and will be responsible for the delivery of the following Civic Leadership Objectives contained in the City of Albany Strategic Plan:

- (a) To establish and maintain sound governance structures;
- (b) To provide strong, accountable leadership supported by a skilled and professional workforce;
- (c) To engage effectively with our community.

(2) It will achieve this by:

- (a) Monitoring and commenting on the financial health and strategies of Council;
- (b) Developing policies and strategies;
- (c) Establishing ways to measure progress;
- (d) Receiving progress reports;
- (e) Considering officer advice;
- (f) Debating topical issues;
- (g) Providing advice on effective ways to engage and report progress to the Community; and
- (h) Making recommendations to Council.

(3) Chairperson: Deputy Mayor, Councillor Stocks

(4) Membership: All elected members

(5) Meeting Schedule: As required

(6) Meeting Location: Council Chambers

(7) Executive Officer: Deputy Chief Executive Officer

(8) Delegated Authority: None

TABLE OF CONTENTS

| | Details | Pg# |
|--------|---|-----|
| 1. | DECLARATION OF OPENING | 4 |
| 2. | PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS | 4 |
| 3. | RECORD OF APOLOGIES AND LEAVE OF ABSENCE | 4 |
| 4. | DISCLOSURES OF INTEREST | 5 |
| 5. | REPORTS OF MEMBERS | 5 |
| 6. | RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE | 5 |
| 7. | PUBLIC QUESTION TIME | 5 |
| 8. | APPLICATIONS FOR LEAVE OF ABSENCE | 5 |
| 9. | PETITIONS AND DEPUTATIONS | 5 |
| 10. | CONFIRMATION OF MINUTES | 5 |
| 11. | PRESENTATIONS | 5 |
| 12. | UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS | 5 |
| 13. | MINUTES AND RECOMMENDATIONS OF COMMITTEES | |
| | Corporate Services and Finance Committee | |
| CSF119 | FINANCIAL ACTIVITY STATEMENT - JULY 2014 | 6 |
| CSF120 | LIST OF ACCOUNTS FOR PAYMENT - AUGUST 2014 | 8 |
| CSF121 | DELEGATED AUTHORITY REPORTS - AUGUST 2014 | 10 |
| CSF122 | QUARTERLY REPORT - TENDERS AWARDED AS AT 30 SEPTEMBER 2014 | 11 |
| CSF123 | ADOPTION OF THE BUDGET REVIEW FOR THE PERIOD ENDING 31 JULY 2014 | 12 |
| CSF124 | PROPOSED CHANGES TO RESERVE 4156 – WA MUSEUM | 15 |
| CSF125 | NEW LEASE AND LICENCE – RETAIL CAFE – ALBANY LEISURE AND AQUATIC CENTRE - CONFIDENTIAL - Provided under separate cover | 24 |
| CSF126 | LEASE VARIATION – HERTZ ALBANY – CAR HIRE SITE – ALBANY REGIONAL AIRPORT TERMINAL | 26 |
| | | |
| 14. | NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL | 28 |
| 15. | MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN | 28 |
| 16. | REPORTS OF CITY OFFICERS | 28 |
| 17. | MEETING CLOSED TO PUBLIC | 28 |
| 18. | CLOSURE | 28 |

1. DECLARATION OF OPENING

The Chair declared the meeting open at [5:31:03 PM](#)

2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

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

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

We would also like to pay respect to Elders both past and present”.

3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

Mayor Mayor D Wellington (Member)

Councillors:

| | |
|--------|------------------|
| Member | G Stocks (Chair) |
| Member | C Dowling |
| Member | R Hammond |
| Member | A Hortin JP |
| Member | R Sutton |
| Member | S Bowles |
| Member | N Williams |
| Member | A Goode JP |
| Member | G Gregson |
| Member | J Price |
| Member | B Hollingworth |

Staff:

| | |
|--|------------|
| Chief Executive Officer | G Foster |
| Deputy CEO | G Adams |
| Manager Finance | D Olde |
| Business Analyst/Management Accountant | D Harrison |

Minutes J Stanton

Apologies:

Member V Calleja JP (Deputy Chair)

4. DISCLOSURES OF INTEREST

| Name | Committee/Report Item Number | Nature of Interest |
|-------------------------|---|---|
| Councillor Sarah Bowles | CSF124 | Impartiality. The nature of the interest being that Councillor Bowles is the Chairperson of the WA Museum Albany Advisory Committee. |

5. REPORTS OF MEMBERS Nil

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE Nil

7. PUBLIC QUESTION TIME Nil

8. APPLICATIONS FOR LEAVE OF ABSENCE Nil

9. PETITIONS AND DEPUTATIONS Nil

10. CONFIRMATION OF MINUTES

DRAFT MOTION

**MOVED: COUNCILLOR DOWLING
SECONDED: COUNCILLOR BOWLES**

THAT the minutes of the Corporate Services and Finance Meeting held on 9 September 2014, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

Carried 12-0

11. PRESENTATIONS Nil

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS Nil

CSF119: FINANCIAL ACTIVITY STATEMENT – AUGUST 2014

Proponent : City of Albany
Attachments : Financial Activity Statement
Report Prepared by : Financial Accountant (S Beech)
Responsible Officer : Deputy Chief Executive Officer (G Adams)

Responsible Officer's Signature:



RECOMMENDATION

CSF119: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HORTIN
SECONDED: COUNCILLOR HAMMOND

THAT Council RECEIVE the Financial Activity Statement for the period ending 31 August 2014.

CARRIED 12-0

BACKGROUND

1. The Statement of Financial Activity for the period ending 31 August 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:
- (1) 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.
 - (2) 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.
 - (3) 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
 - (4) 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.

POLICY IMPLICATIONS

8. The City's 2014/15 Annual Budget provides a set of parameters that guides the City's financial practices.
9. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

FINANCIAL IMPLICATIONS

10. Expenditure for the period ending 31 August 2014 has been incurred in accordance with the 2014/15 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.

| | | |
|-----------------------------------|---|----------------------|
| File Number (Name of Ward) | : | FM.FIR.2 - All Wards |
|-----------------------------------|---|----------------------|

CSF120: LIST OF ACCOUNTS FOR PAYMENT – SEPTEMBER 2014

Proponent : City of Albany
Attachments : List of Accounts for Payment
Report Prepared by : Financial Accountant (S Beech)
Responsible Officer : Executive Director Corporate Services (G Adams)

Responsible Officer's Signature:



RECOMMENDATION

CSF120: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR GREGSON

That Council receive the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 September 2014 totalling \$7,875,051.30.

CARRIED 12-0

BACKGROUND

- 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

- The table below summarises the payments drawn from the municipal fund for the period ending 15 September 2014. Further details of the Members Report/Information Bulletin.

Municipal Fund

| | |
|---------------------------|----------------|
| Trust | \$0.00 |
| Credit Cards | \$22,457.44 |
| Payroll | \$1,098,221.35 |
| Cheques | \$47,755.25 |
| Electronic Funds Transfer | \$6,706,617.26 |

TOTAL

\$7,875,051.30

- As at 15 September 2014, the total outstanding creditors, stands at \$430,864.58 and made up as follows:

| | |
|---------|--------------|
| Current | \$283,718.31 |
| 30 Days | \$146,985.32 |
| 60 Days | \$269.00 |
| 90 Days | -\$108.05 |

TOTAL \$430,864.58

4. Cancelled cheques:
- 28521 – cheque lost replaced with 30158;
 - 28689 – cheque lost replaced with EFT93750;
 - 28692 – cheque lost replaced with 30170;
 - 30137 – incorrect amount – creditor transaction cancelled;
 - 30139 – incorrectly processed to creditor – was a Visitors Centre Booking to be processed via internal bank transfer;
 - 30108 – incorrect creditor request – reversed and processed correctly – paid via EFT93332; and
 - 30086 – incorrect amount on request – reversed and paid for by staff personal credit which was later reimbursed – see EFT92927.

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.

POLICY IMPLICATIONS

8. Expenditure for the period to 15 September 2014 has been incurred in accordance with the 2014/2015 budget parameters.

FINANCIAL IMPLICATIONS

9. Expenditure for the period to 15 September 2014 has been incurred in accordance with the 2014/2015 budget parameters.

SUMMARY CONCLUSION

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

| | | |
|-----------------------------------|---|----------------------|
| File Number (Name of Ward) | : | FM.FIR.2 - All Wards |
|-----------------------------------|---|----------------------|

CSF121: DELEGATED AUTHORITY REPORTS – SEPTEMBER 2014

Proponent : City of Albany
Attachments : Executed Document and Common Seal Report
Report Prepared by : Personal Assistant to Deputy CEO (J Stanton)
Responsible Officer : Chief Executive Officer (G Foster)

Responsible Officer's Signature:



RECOMMENDATION

CSF121: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HOLLINGWORTH
SECONDED: COUNCILLOR DOWLING

THAT Council RECEIVE the Delegated Authority Reports up until 15 September 2014.

CARRIED 12-0

**CSF122: QUARTERLY REPORT – TENDERS AWARDED – JULY TO
SEPTEMBER 2014**

Proponent : City of Albany
Attachments : Quarterly Report – Tenders Awarded – July to September
2014
Report Prepared by : Procurement Officer (H Hutchinson)
Responsible Officer : Deputy Chief Executive Officer (G Adams)

Responsible Officer's Signature:



RECOMMENDATION

CSF122: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR SUTTON

THAT Council RECEIVE the Quarterly Report – Tenders Awarded – July to September 2014.

CARRIED 12-0

**CFS123: ADOPTION OF THE BUDGET REVIEW FOR THE PERIOD
ENDING 31 AUGUST 2014**

Proponent : City of Albany
Attachments : Budget Review for the period ending 31 August 2014
Report Prepared by : Business Analyst/Management Accountant (D Harrison)
Responsible Officer : Executive Director Corporate Services (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 2014-2018:
 - a. **Key Theme:** 5. Civic Leadership.
 - b. **Strategic Objective:** 5.1. To establish and maintain sound business and governance structures.
 - c. **Strategic Initiative:** 5.1.3_Integrated Planning Framework.

In Brief:

- Local governments are required to conduct a budget review between 1 January and 31 March each financial year which is a requirement covered by regulation 33A of the *Local Government (Financial Management) Regulations 1996*. The Department recommends a review of the budget early in the financial year to amend carry forward projects from forecast to actual.
- This review is for the period ending 31 August 2014 and will be followed by a proposed further review for the period ending 31 January 2015. Budget adjustments of an urgent nature will be brought to a Council Meeting as an item to be discussed when required and actioned outside of these reviews.

RECOMMENDATION

CSF123: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR SUTTON**

THAT the Budget Review for the period ending 31 August 2014 is ADOPTED.

CARRIED 12-0

BACKGROUND

2. Council adopted the 2014/2015 Budget on 22 July 2014. The total budget of \$107.4M comprising of:
 - a. \$46.5M capital works;
 - b. \$1.5M debt reduction; and
 - c. \$59.4M in operating expenditure.

3. This Budget Review identifies expenditure of \$2,713,041 for general works, variations and new projects.
4. Funding of \$2,850,367 inclusive of reduction in expenditures, adjustment of grant funding, additional revenue, reserve funding and an increase in opening funds has been identified in this review to maintain a surplus budget.
5. This budget review shows the 2014/2015 budget in a surplus position of \$137,326.
6. Executives, Managers and Officers with budget responsibility were consulted in the preparation of the Budget Review.
7. A copy of the Budget Review for the period ending 31 August 2014 is attached.

GOVERNMENT & PUBLIC CONSULTATION

8. Nil.

STATUTORY IMPLICATIONS

9. Under the *Local Government Act 1995*, Section 6.8, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:
 - a. is incurred in a financial year before the adoption of the annual budget by the local government
 - b. is authorized in advance by a resolution (absolute majority required) or;
 - c. is authorized in advance by the mayor in an emergency.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|---|-----------------|-----------------|---------------|--|
| <i>Business interruption resulting from Council not approving (adopting) the Budget Review.</i> | <i>Unlikely</i> | <i>Moderate</i> | <i>Medium</i> | <p><i>The Annual Budget would apply.</i></p> <p><i>Additional expenditure for existing line items, already incurred, would be noted as budget overruns.</i></p> <p><i>Proposed expenditure not already incurred would not proceed.</i></p> |

FINANCIAL IMPLICATIONS

| BUDGET REVIEW FOR THE PERIOD ENDING 31 AUGUST 2014 | | |
|--|-----------|--------------------|
| This Review Maintains Council's Budget in a Surplus Position | | |
| | | \$ |
| GENERAL WORKS/VARIATIONS. (Additional Funds Required) | | (2 713 041) |
| FUNDED BY | | |
| - Reduction in Expenditure | 716 379 | |
| - Adjustment in Grant/Contributions Funding | 595 753 | |
| - Adjustment in Revenue | 35 000 | |
| - Restricted Cash Adjustments | 524 499 | 1 871 631 |
| Balance | | (841 410) |
| - Adjustment to opening funds from forecast to actual 30 June | 1 214 097 | |
| - Carry Forward Adjustment From 2013/14 Financial Year | (235 361) | |
| | | 137 326 |
| <i>Note: Page 8 of this review is to be read in conjunction with the presentation "Project Update to Elected Members" held on Tuesday 23 September 2014.</i> | | |

LEGAL IMPLICATIONS

12. Nil

ENVIRONMENTAL CONSIDERATIONS

13. Nil.

ALTERNATE OPTIONS

14. Adopt the Budget Review for the period ending 31 August 2014 with amendments (as specified by Council)

SUMMARY CONCLUSION

15. It is recommended that the Responsible Officer Recommendation be adopted.

| | | |
|-----------------------------------|---|---|
| Consulted References | : | Adopted Budget 2014/2015 Local Government Act 1995 |
| File Number (Name of Ward) | : | FM.BUG.2 |
| Previous Reference | : | Annual Budget – Ordinary Council Meeting 22 July 2014 |

CSF124: PROPOSED CHANGES TO RESERVE 4156 – WA MUSEUM

| | |
|--------------------------------|---|
| Land Description | : Reserve 4156 No 2 Parade Street, Albany |
| Proponent | : WA Museum |
| Owner | : State of WA, Crown reserve vested in the City of Albany |
| Attachments | : Plan of Proposed Land Changes – Reserve 4156 |
| Responsible Officer(s): | : Deputy Chief Executive Officer |

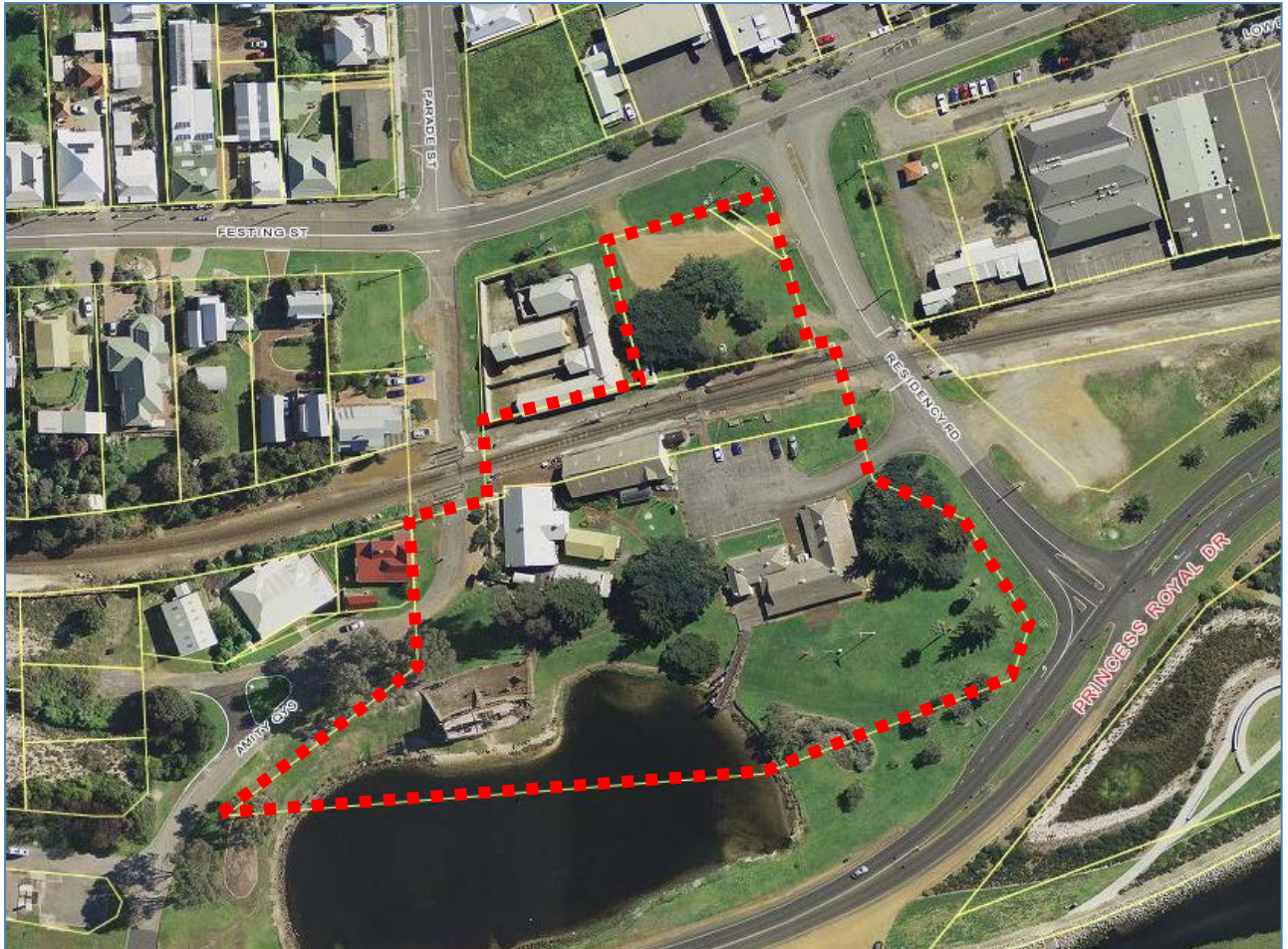
Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 5 Civic Leadership.
 - b. **Strategic Objective:** 5.3 To engage effectively with our community.
 - c. **Strategic Initiative:** 5.3.1 Develop structures and processes that engage the community.
 - d. **Strategic Outcome:** Respond to government land requests, as necessary.

Maps and Diagrams:



In Brief:

- Reserve 4156 contains the Albany Residency Museum, which has been leased by the WA Museum officially since the 1990s. Since the expiry of their lease in April 2013, the City and WA Museum have been in discussions regarding the future management of the site.
- WA Museum has expressed an interest in taking over the management order for this reserve and general State Government support for this action has been obtained.
- For the purpose of ongoing discussions, the City has supported this option on the condition that the portion of Reserve 4156 north of the rail line stays in the City's management, any infrastructure in the southern portion of Reserve 4156 is protected via easements or road reserves and that other minor land issues would be addressed as part of this action. Formal Council approval of this approach is now being sought.

RECOMMENDATION

CSF124: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON

SECONDED: COUNCILLOR GREGSON

THAT Council:

- (1) **RESOLVES**, subject to section 50 of the *Land Administration Act 1997*, to revoke the existing management order over that portion of Reserve 4156 south of the rail reserve, in favour of the management order for that land area being granted to the WA Museum, subject to the following conditions:
- a) The WA Museum assuming the control of all land and buildings contained in that portion of Reserve 4156 south of the rail line;
 - b) The area of Reserve 4156 north of the rail reserve is to remain in the care, control and management of the City of Albany;
 - c) The area of Unallocated Crown Land passing through the land north of the rail reserve being included into this part of Reserve 4156 (or newly created reserve), as it contains the City's drainage infrastructure;
 - d) That an easement be registered over the two existing drainage pipes and tidal pond contained in that portion of Reserve 4156 south of the rail reserve, in favour of the City, so that we may continue to maintain this infrastructure into the future;
 - e) Subject to section 56 of the *Land Administration Act 1997*, that a 500m² portion (land area subject to survey) of Reserve 4156 be dedicated as a road to form part of Princess Royal Drive, as required by Main Roads WA. The City, on behalf of Main Roads WA, indemnifies the Minister for Lands against any claims for compensation, as required by this part;
 - f) Subject to section 56 of the *Land Administration Act 1997*, that a 450m² portion (land area subject to survey) of Reserve 4156 be dedicated as a road to form part of Amity Quays. The City indemnifies the Minister for Lands against any claims for compensation, as required by this part;
 - g) WA Museum maintaining a lease agreement with the Public Transport Authority and/or Brookfield Rail for that portion of the Eclipse Building situated in the rail reserve; and
 - h) WA Museum surrendering their existing lease agreement for the Welcome Walls.
- (2) **RESOLVES** to action a public consultation period prior to sending any request to the Minister for Lands, including direct consultation with the Albany Historical Society. Should any objections be received, a further item to Council will be required to consider the submissions.

CARRIED 12-0

BACKGROUND

2. The Eclipse Building, which forms part of the Albany Residency Museum complex, was constructed in the late 1980s by the Building Management Authority (now Department of Building Management and Works). The Building Management Authority proposed to construct this building over the boundary between Reserve 4156 and the rail reserve. In 1988, Westrail provided written approval for the building to be constructed in this location, but did not support the excision of land from the rail reserve, so that the building could be wholly located on Reserve 4156.
3. The WA Museum has held a lease over the Albany Residency Museum since 14 April 1992. This lease agreement expired on 13 April 2013 and WA Museum has managed the site on a holding over basis since this time.
4. In August 2010, the City entered into a further lease agreement with WA Museum to cover the Welcome Walls development. This forms part of the Albany Museum complex. The Welcome Walls lease is for a term of 21 years, expiring in July 2031.
5. At the time of the main lease expiry in April 2013, WA Museum approached the City to determine if it would be possible to take over the management order for Reserve 4156 rather than renewing their past lease agreement. Since this time, City officers have met with WA Museum representatives to discuss this possibility and undertaken consultation with relevant state government agencies.

DISCUSSION

Proposed Land Changes

6. City officers have no objections to the intent of transferring portion of Reserve 4156 to the WA Museum's management, rather than renewing their existing lease of the buildings on the land. However, it is proposed that the subject Reserve 4156 be separated into two separate reserves such that land north of the rail line, which is required by the City, can remain in our management.
7. In transferring the land south of the rail line, a number of infrastructure issues will need to be addressed, such that the requirements of the City and Main Roads can be met. This will be discussed in more detail in the following part.
8. WA Museum has agreed, as follows:
 - a. To accept the management order for that portion of Reserve 4156 south of the rail reserve, including all buildings and landscaped areas within the Reserve (including the Brig Amity);
 - b. Agrees to the lodgement of an easement over the two drainage pipes and the tidal pond to protect the City's infrastructure, on the basis that WA Museum has the opportunity to approve the Deed of Easement which states the City will maintain the full maintenance burden of the tidal pond;
 - c. Agrees to two areas of the reserve being given up for the widening of the Princess Royal Drive and Amity Quays road reserves, as per Main Roads WA and City requirements;
 - d. To maintain an independent lease arrangement with the Public Transport Authority and/or Brookfield Rail for that portion of the Eclipse Building situated in the rail reserve;
 - e. To meet half the costs associated with this action (which will likely only be survey costs, as required by the Department of Lands); and
 - f. To surrender their existing lease agreement for the Welcome Walls.

City Infrastructure

9. The portion of Reserve 4156 north of the rail line currently contains toilets, which were used by staff and visitors to the Old Gaol. The old toilets in this location have been closed, as they are in a state of disrepair, and a transportable toilet is in place. There is a budget allocation in the 2014-15 financial year to install new toilets in this location.
10. In addition, this area north of the rail reserve is used for overflow parking, particularly during City events. Given the overall parking shortage in the City Centre, it is considered important to keep the land available for this use.
11. There is a drainage line running through the north eastern corner of the land, which is situated in Unallocated Crown Land. As part of this process, the City will seek control of this land which contains our infrastructure, such that it forms part of this new section of reserve north of the rail line.
12. In the area south of the rail reserve, the City has two drainage lines running down from the City Centre residential area into the tidal pond. The City also maintains the tidal pond, which is situated partly within Reserve 4156 and partly in the Princess Royal Drive road reserve. An easement agreement is proposed to ensure that the City maintains access and maintenance rights to this infrastructure. This approach has been supported by the WA Museum.
13. In the consultation with Main Roads WA, they have requested that portion of this reserve be given up for the widening of Princess Royal Drive, which is a designated State Road and is controlled by this agency. No concerns with this requirement are raised, as there is also City drainage infrastructure in the south-eastern corner of Reserve 4156, where the road widening will be given up.
14. It is noted that even though Princess Royal Drive is a road controlled by Main Roads WA, there is a general understanding that they manage the road from kerb to kerb and any infrastructure in the verge areas (i.e. drainage, footpaths etc) are often managed by the City.
15. It is further proposed that an area of land in the north-west corner of the Reserve be given up for the widening of Amity Quays. This road widening will ensure that a road link is maintained from Amity Quays to Parade Street, where there is currently a pedestrian crossing over the rail line. This may need to be used in the future as the primary road access to the Amity Quays land, as Main Roads have tentatively discussed the option of closing the entry / exit from Amity Quays onto Princess Royal Drive. This matter requires further consideration, however the road widening of Amity Quays should be taken at this stage so that all options remain viable into the future.

Eclipse Building

16. The Eclipse Building is currently situated over the boundary between Reserve 4156 and the rail reserve. In the early consultation, it was suggested that some land could be excised from the rail reserve so that the building was wholly situated in Reserve 4156, as it is not considered appropriate to have a building constructed over a boundary.
17. Both Brookfield Rail and the Public Transport Authority raised objection to the reduction of the rail reserve, as there are plans to duplicate the rail line at some stage and, as such, they did not wish to support any excision of land.

18. It has since been discovered that the WA Museum holds an existing lease for that portion of the building in the rail reserve. This lease is due to expire in December 2015 and WA Museum has discussed with the Public Transport Authority the renewal of this agreement. The City is not party to this agreement.

Brig Amity

19. The Brig Amity was previously managed by the Albany Historical Society, however as of September 2014, the management of this facility was transferred to WA Museum, so that it will form part of the whole museum complex.
20. The City has recently undertaken maintenance works on the facility.

GOVERNMENT & PUBLIC CONSULTATION

21. The City has undertaken preliminary consultation with key state government agencies, so that their comments could be considered as part of this item. The response from these agencies are summarised, as follows:

a. Department of Lands

The Department of Lands has advised that it supports, in principle, the change in management of Reserve 4156, subject to the following:

- Both the City and the WA Museum agreeing to the proposal;
- A submission being made to the Department providing evidence of agreement being in place, including agreement to meet costs involved in achieving the changes that will be required. The costs in this case will be limited to survey / plan preparation costs necessary to implement the proposed changes, including the identification of any easement requirements;
- As Reserve 4156 is an 'A' class reserve and although the Department agrees in principle with the changes, the power to implement these changes is not delegated. Any implementation of these changes will first require the support of the Hon Minister for Lands, as period of advertising during which public comment is accepted and considered, and a proposal tabled in both Houses of Parliament;
- The encroachment into the rail corridor should be resolved, but should not in itself hold up any other action to rationalise the management of the reserve. In this case, a leasing or authority arrangement might be considered with the Public Transport Authority; and
- The reservation with management to the City of the unallocated crown land (drainage corridor) in the north east corner of Reserve 4156 is fully supported.

b. State Heritage Office

The land management changes will not impact on the cultural significance of the place and there is no objection from a heritage perspective.

c. Main Roads WA

The land changes are supported in principle, however portion of Reserve 4156 should be vested with Main Roads as a road reserve and a notification should be placed on any certificates of title affected by these changes to advise that the lots are in the vicinity of a transport corridor and may be affected by transport noise.

There are no objections to dedicating portion of Reserve 4156 as a road reserve, as part of this action, as the City also has drainage infrastructure in this portion and it is appropriate for it to be contained in a road reserve.

With regard to the transport noise condition, this is not considered necessary, given that it will be a government agency assuming control of the land. If it was to be transferred to a private owner, no concerns would be raised, however it seems an onerous requirement in this circumstance.

Main Roads WA has also commented on the Amity Quays – Parade Street road link. This agency supports extending the Amity Quays road reserve, such that it aligns with Parade Street as a continuous thoroughfare, though it is recognised that Brookfield Rail and the Public Transport Authority may object to this option and that further negotiation would be required.

d. Great Southern Development Commission

The Great Southern Development Commission is of the view that the proposed land changes will be beneficial for both parties and will allow WA Museum more autonomy in the development and planning for the future of the Museum at this site, allowing it to continue to grow as a much valued asset to the community and wider region.

e. Public Transport Authority (and Brookfield Rail)

The initial referral looked at options to excision portion of the rail reserve and include it into Reserve 4156, as the Eclipse Building has been constructed over the boundary between these two parcels. The Public Transport Authority, responding on behalf of Brookfield Rail (who control the rail line), raised objections to the excision of land as they wish to duplicate the rail line at some stage in the future.

In discussions with the Public Transport Authority, it was determined that the best means for dealing with the Eclipse Building would be to continue the existing lease arrangement in place between the Authority and WA Museum. WA Museum have also supported this option.

With regard to the Amity Quays – Parade Street road link, the City was advised that it would be unlikely for a new crossing to be approved in this location, given the other crossings in the vicinity. Both the Public Transport Authority and Main Roads WA recognise that this will require further discussion, which is beyond the scope of this land matter.

The City has not yet discussed this proposal with the Albany Historical Society or the wider community. It is proposed that a brief public consultation period occur prior to sending any request to the Minister for Lands. As part of this action, Albany Historical Society will be contacted directly. It is noted that this is not a statutory requirement, but rather an option to keep the general community informed.

STATUTORY IMPLICATIONS

22. Section 42 of the *Land Administration Act 1997* allows the Minister to classify a reserve as an A class reserve and the procedures that must be observed as detailed in this part and Section 43.
23. These procedures essentially state that any substantive change to an A class reserve must be referred by the Minister for Lands to both Houses of Parliament and must advertise the proposal in a newspaper circulating throughout the State.

24. Section 44 of the *Land Administration Act 1997* allows the Minister to grant an easement over an A class reserve.
25. Section 50 of the *Land Administration Act 1997* allows a management body to revoke their management order over a reserve.
26. Section 51 of the *Land Administration Act 1997* allows the Minister to cancel, change the purpose of or amend the boundaries of the land comprising a reserve.
27. 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.
28. Delegation 2014:039 of the City's Register of Delegations grants authority to approve the surrender of a lease / licence of any property, where the balance of the lease / licence payable does not exceed \$10,000 and all accounts being paid in full.

POLICY IMPLICATIONS

29. There are no policy implications relevant to this item.

RISK IDENTIFICATION & MITIGATION

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

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|---|-----------------|--------------|---------------|---|
| <i>Proposed land tenure changes not endorsed and approved by Council, meaning the WA Museum's request is not granted.</i> | <i>Possible</i> | <i>Minor</i> | <i>Medium</i> | <i>Either: a) Support the proposed changes; b) Clearly convey to WA Museum the reasons for not supporting the proposed changes.</i> |

FINANCIAL IMPLICATIONS

31. If portion of Reserve 4156 is to be given over to WA Museum's direct management, the City's lease of the land will be terminated. With this termination, this will represent the loss of rental income.
32. However, the lease of the Residency Museum is an annual peppercorn and the Welcome Walls has a base rent of \$985.60 per annum. The loss of this rental income is considered to be negligible.
33. In terms of the land tenure changes proposed, this is unlikely to carry any significant financial expense. Survey costs may need to be met, however it is proposed that these costs be shared with the WA Museum. This expense can be easily accommodated in current budget line items.

LEGAL IMPLICATIONS

34. The land tenure changes proposed will ensure that the City's infrastructure is legally protected under any future land title via the registration of easements or in widened road reserves etc.

ENVIRONMENTAL CONSIDERATIONS

35. The Albany Residency Museum is listed on the State Register of Heritage Places and, as such, the provisions of the *Heritage of Western Australia Act 1990*.
36. The proposal before Council does not propose any material change to the structures on this land and no approval is considered necessary under the Act. This position has been supported by the State Heritage Office.

ALTERNATE OPTIONS

37. Council may:
 - a. Maintain the City's existing management of Reserve 4156 and renew WA Museum's previous lease over the land; or
 - b. Support the proposal to cede portion of Reserve 4156 in favour of WA Museum taking over the management order for this portion land and eliminating the need for a lease renewal.

SUMMARY CONCLUSION

38. WA Museum, as a statutory authority, is considered to have the resources and capacity to manage the Albany Residency Museum reserve and this action may assist with the future planning and development of this important tourist site. As such, there are no significant concerns raised with transferring the management of portion of Reserve 4156.
39. This support is made on the basis that the portion of Reserve 4156 north of the rail line continues to be managed by the City, as it provides an opportunity for overflow parking and will soon contain new public toilet facilities.
40. The revocation of the City's management order south of the rail line is conditional upon both City and Main Roads infrastructure being protected by easements or widened road reserves, as there is no expectation that WA Museum will assume the management of this infrastructure.
41. It is proposed to undertake a brief public consultation period prior to forwarding any request to the Minister for Lands, so that the general community and, in particular, the Albany Historical Society, are informed of this change of management proposal.

| | | |
|-----------------------------------|---|--|
| Consulted References | : | Land Administration Act 1997 Council Register – Register of Delegations |
| File Number (Name of Ward) | : | PRO098 |
| Previous Reference | : | No previous references |

**CSF125: NEW LEASE AND LICENCE – RETAIL CAFE – ALBANY
LEISURE AND AQUATIC CENTRE**

| | |
|----------------------------|--|
| Land Description | : Lot 742 on Deposited Plan 224159 and being all that land comprised in Certificate of Title Volume 1179 Folio 118 at 52 Barker Road, Centennial Park WA |
| Proponent | : Neil and Sarah Simmonds as Trustee for the N & S Simmonds Family Trust |
| Owner | : City of Albany |
| Attachments | : Confidential Committee Report – CSF125 |
| Report Prepared by | : Team Leader Property and Leasing (T Catherall) |
| Responsible Officer | : Deputy CEO (G Adams) |

Responsible Officer's Signature:



Confidential attachment covered 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 - (ii) 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 2014-2018:
 - 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 Develop informed and transparent decision making processes that meet our legal obligations.

RECOMMENDATION

CSF125: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON

SECONDED: COUNCILLOR SUTTON

THAT a new retail lease and non-exclusive licence within the Albany Leisure and Aquatic Centre for the recommended tenderer, subject to:

- a) Lease purpose being retail cafe.
- b) Licence purpose being snack vending machine.
- c) Lease area being 84.3m².
- d) Licence area being approximately 1-2m².
- e) Lease rent as determined by a current market valuation being \$16,860 plus GST per annum plus a fixed utility charge for water consumption.
- f) Licence rent to be determined by a current market valuation provided by a Licensed Valuer.
- g) Lease and licence term being 5 years with an option for a further 5 year term.
- h) Anticipated lease and licence commencement date being 1 December 2014.
- i) Pursuant to Section 3.58 of the *Local Government Act 1995* advertising requirements.
- j) All costs associated with the ongoing operations of the lease and licence premises being payable by the proponent.
- k) Pursuant to Section 14B of the *Commercial Tenancy (Retail shops) Agreements Act 1985* all costs associated with the preparation, execution and completion of the Deed of Lease being payable by the City of Albany, as Landlord.
- l) All costs associated with the preparation, execution and completion of the Deed of Licence being payable by the proponent.

be APPROVED.

CARRIED 12-0

**CSF126: LEASE VARIATION – HERTZ ALBANY – CAR HIRE SITE –
ALBANY REGIONAL AIRPORT TERMINAL**

Land Description : Lot 5643 on Deposited Plan 157458 and Lot 4861 on Deposited Plan 157338 the whole of the land contained in Certificate of Title Volume 2088 Folio 492 at 35615 Albany Highway, Drome

Proponent : SV Haoust Pty Ltd

Owner : City of Albany

Business Entity Name : Hertz (Car Rental & Hire – Albany WA)

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

Responsible Officer : Deputy CEO (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 2014-2018:
 - 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 Develop informed and transparent decision making processes that meet our legal obligations.

In Brief:

- Council is requested to consider a variation of lease for SV Haoust Pty Ltd (trading as Hertz) to modify the lease area and rent at the Albany Airport terminal, as a result of the Airport redevelopment works.
- The recommendation proposes that Council approve the variation request.

RECOMMENDATION

CSF126: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR HORTIN

THAT Council APPROVE the variation of lease for SV Haoust Pty Ltd (trading as Hertz) at the Albany Airport terminal subject to:

- a) **Lease variation date being determined by City of Albany requirements.**
- b) **The modified lease area being approximately 5.1m² and consistent with the Airport redevelopment plans.**
- c) **Lease rental being determined by a current market valuation provided by a licensed Valuer.**
- d) **All other terms of the original lease (dated 12 August 2010) to apply.**
- e) **All costs associated with the preparation, execution and completion of the Deed of Variation of Lease being payable by the City.**

CARRIED 12-0

BACKGROUND

2. At Ordinary Council Meeting 15 December 2009 Council granted a new lease to SV Haoust Pty Ltd trading as Hertz for car hire operations over an area of approximately 13.3m², within the Albany Airport terminal and four car parking bays.
3. The lease commenced 1 August 2010 for a five year term, with an option for a further five year term. Current rental being \$8,048.86 plus GST per annum incl.
4. At Ordinary Council Meeting 17 May 2011, Council endorsed the Airport redevelopment to meet legislative transport security requirements. Subsequently in September 2011 Council endorsed the tender for the Airport Master Plan and Security Upgrades.
5. As part of the redevelopment, Hertz were relocated to a temporary position within the terminal to allow for the renovation of the baggage claim area and the creation of the new hire car counters.
6. In recognition of the inconvenience to Hertz by the relocation, the City offered rent abatement during this period.

DISCUSSION

7. The City currently has three lease agreements with car hire companies operating at the Airport terminal being Hertz, Avis Albany and Budget Rent a Car.
8. The redevelopment plans grouped all car hire operators together. After consultation with the operators, plans were finalised around August 2014 with agreement of all three car hire operators.
9. Hertz lease area has been relocated from the northern end of the terminal building to adjacent the existing car hire counters for Avis and Budget Rent a Car.
10. The proposed variation will formally document the relocation and reduction of the lease area from 13.3m² to 5.1m² (68% reduction in area). A current market rental valuation will be undertaken to reflect the new lease area that Hertz now occupy.
11. Avis and Budget Rent a Car lease locations have remained the same so a variation of lease is not required.
12. Under the redevelopment, the car hire sites are now grouped together creating a main focal point for customers who require a hire car. The new location is the first focus for passengers as they move through the arrivals door into the baggage claim area.
13. The sites for the car hire operators are totally refurbished with new carpets, lighting, customer service counters, and lockable drawer and cupboard units.
14. The car hire sites are now equitable.
15. During the terminal redevelopment the number of car parking bays used by car hire companies were relaxed due to the level of disruption caused by these works. Works are now nearing full completion with site construction offices and builders compound removed making more car spaces available and hire car company lease conditions for car parking bays will be enforced.
16. It is noted that City officers have commenced investigation into establishing new car hire facilities in the precinct south of the terminal to include a new office, car storage and wash down facilities for all three operators.

GOVERNMENT & PUBLIC CONSULTATION

17. No Government consultation is required as lease area is located within City of Albany owned freehold land.

STATUTORY IMPLICATIONS

18. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased land and buildings.
19. City Delegation 2014:039 grants authority to the Designated Officers of the Chief Executive Officer and Deputy Chief Executive Officer to approve a lease variation where the leased area is no more or no less than 10 percent of the existing area.
20. Given the leased area variance is greater than 10 percent the request requires Council approval as cannot be processed under delegated authority.

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 Enterprise Risk Management Framework.

| Risk | Likelihood | Consequence | Risk Analysis | Mitigation |
|---|-----------------|-----------------|---------------|--|
| <i>Reputation: Council does not approve a lease variation</i> | <i>Unlikely</i> | <i>Moderate</i> | <i>Medium</i> | <i>Seek to negotiate terms to Council satisfaction</i> |

FINANCIAL IMPLICATIONS

25. All costs associated with the development, execution and completion of the Deed of Variation of Lease documentation will be met by the City of Albany.

LEGAL IMPLICATIONS

26. The Deed will be prepared by the City's lawyers.

ENVIRONMENTAL CONSIDERATIONS

27. There are no environmental implications.

ALTERNATE OPTIONS

28. There is not considered to be any alternative options in this circumstance, as Hertz has been relocated at the request of the City to facilitate the Airport redevelopment works required to meet legislative requirements.

SUMMARY CONCLUSION

29. The proposed variation of lease for SV Haoust Pty Ltd trading as Hertz is necessary to reflect the completed Airport terminal upgrade works. The car hire layout within the terminal is now considered equitable for all operators.
30. It is recommended that the lease variation be supported.

| | | |
|-----------------------------------|---|--|
| Consulted References | : | Council Policy – Property Management – Leases and Licences <i>Local Government Act 1995</i> |
| File Number (Name of Ward) | : | PRO374 (Kalgan Ward) |
| Previous Reference | : | OCM 15.12.2009 Item 14.11 OCM 17.05.2011 Item 3.2 SCM 06.09.2011 Item 6.2 |

14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL:** Nil
15. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:** Nil
16. **REPORTS OF CITY OFFICERS:** Nil
17. **MEETING CLOSED TO PUBLIC:** Nil
18. **NEXT MEETING DATE:** 5.30pm Monday 10 November 2014
19. **CLOSURE OF MEETING:** There being no further business the Chair declared the meeting closed at [6:13:55 PM](#)