



MINUTES

CORPORATE SERVICES AND FINANCE COMMITTEE MEETING

12 May 2015

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

CORPORATE SERVICES AND FINANCE COMMITTEE
MINUTES – 12/05/2015

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1. DECLARATION OF OPENING

[5:30:11 PM](#) The Presiding Member declared the meeting open.

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

Councillors:

Member	G Stocks (Chair)
Member	V Calleja JP (Deputy Chair)
Member	R Sutton
Member	A Goode JP
Member	B Hollingworth
Member	N Mulcahy
Member	C Dowling
Member	A Hortin JP
Member	R Hammond
Member	G Gregson
Member	S Bowles
Member	J Price

Staff:

Chief Executive Officer	G Foster
Deputy CEO	G Adams
Manager Finance	D Olde
Manager Works & Services	M Thomson

Meeting Secretary H Bell

Apologies:

Member C Dowling

CORPORATE SERVICES AND FINANCE COMMITTEE
MINUTES – 12/05/2015

4. DISCLOSURES OF INTEREST

NIL

Name	Committee/Report Item Number	Nature of Interest

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

6. PUBLIC QUESTION TIME

Mr Tim Woolerson – General Manager Transwa
Peter Duncan – Albany Model Railway – Tabled document to councillors
Martin Hveissel – Spectrum Theatre

7. PETITIONS AND DEPUTATIONS

NIL

8. CONFIRMATION OF MINUTES

RESOLUTION

MOVED MAYOR

SECONDED CR HORTIN

THAT the minutes of the Corporate Services and Finance Meeting held on 14 April 2015, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED12-0

9. PRESENTATIONS

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS Nil

CSF164: FINANCIAL ACTIVITY STATEMENT – MARCH 2015

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

CSF164: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR CALLEJA

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

CSF164: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Financial Activity Statement for the period ending 31 March 2015.

BACKGROUND

1. The Statement of Financial Activity for the period ending 31 March 2015 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 March 2015 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
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CSF165: LIST OF ACCOUNTS FOR PAYMENT – APRIL 2015

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

CSF165: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR CALLEJA

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

CSF165: RESPONSIBLE OFFICER RECOMMENDATION

That Council received the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 April 2015 totalling \$5,029,720.26.

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 April 2015. Further details of the Members Report/Information Bulletin.

Municipal Fund

Trust	\$17,400.00
Credit Cards	\$37,430.71
Payroll	\$1,127,757.52
Cheques	\$107,118.69
Electronic Funds Transfer	\$3,740,013.34

TOTAL

\$5,029,720.26

3. As at 15 April 2015, the total outstanding creditors, stands at \$898,480.84 and made up as follows:-

Current	\$429,761.00
30 Days	\$429,560.04

60 Days	\$23,227.97
90 Days	\$15,931.83
TOTAL	<u>\$898,480.84</u>

Cancelled cheques: 30480 – not required

STATUTORY IMPLICATIONS

4. 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.
5. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.
6. 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

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

FINANCIAL IMPLICATIONS

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

SUMMARY CONCLUSION


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

File Number (Name of Ward)	:	FM.FIR.2 - All Wards
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CSF166: DELEGATED AUTHORITY REPORTS

Proponent : City of Albany
Attachments : Executed Document and Common Seal Report
Report Prepared by : Personal Assistant to the DCEO (H Bell)
Responsible Officer : Chief Executive Officer (G Foster)

Responsible Officer's Signature:



RECOMMENDATION

CSF166: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR BOWLES

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

CSF166: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Delegated Authority Reports up until 15 April 2015.

CSF167: LEASES – PROUDLOVE PRECINCT

- Land Description** : • Crown Reserve 42793 and being Lot 512 on Plan 58074 as detailed in Certificate of Title Volume LR3160 Folio 28
• Crown Reserve 42792 and being Lot 1404 on Plan 218308 as detailed in Certificate of Title Volume LR3121 Folio 760
• Albany Lots B42 and B44 and being whole of land in Certificate of Title Volume 1739 Folio 647
- Proponent** : City of Albany
Owner : City of Albany and Crown
Report Prepared by : Team Leader Property and Leasing (Tanya Catherall)
Responsible Officer : Deputy Chief Executive Officer (G Adams)

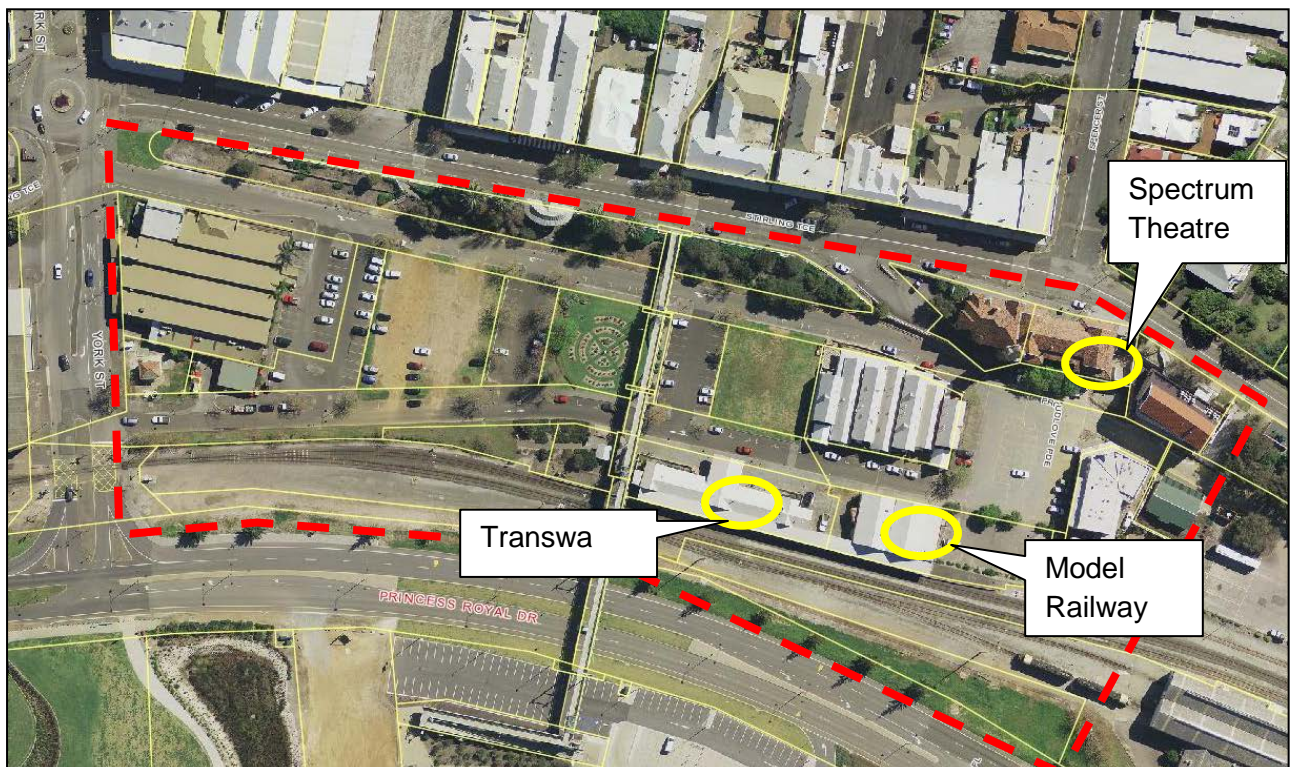
Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 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.

Maps and Diagrams:



IN BRIEF

- Council is requested to endorse the holding over arrangements for the below leases pending determination of future use and management of the Proudlove Precinct.
 1. Transwa, located within the Railway Station on Crown Reserve 42793.
 2. Albany Model Railway, located within the Bond Store on Crown Reserve 42792.
 3. Spectrum Theatre, located within the Old Albany Post Office on City owned freehold land.
- It is proposed to provide lessees with no less than four (4) months notice regarding the end of the holding over arrangement and the City will endeavour to provide a longer period of notice, if possible.

RECOMMENDATION

CSF167: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR BOWLES

SECONDED: COUNCILLOR GREGSON

THAT Council ENDORSES the following leases to remain on holding over arrangements pending determination of the future use and management of the Proudlove Precinct, subject to providing lessees with no less than ten (10) months notice regarding the end of the holding over arrangement.

1. Transwa.
2. Albany Model Railway Association Inc.
3. Spectrum Theatre Inc.

CARRIED 8-4

CSF167: AMENDMENT BY COUNCILLOR PRICE

MOVED: COUNCILLOR PRICE

SECONDED: COUNCILLOR HAMMOND

THAT the Responsible Officer Recommendation be AMENDED to read as follows:

THAT Council ENDORSES the following leases to remain on holding over arrangements pending determination of the future use and management of the Proudlove Precinct, subject to providing lessees with no less than **ten (10) months notice regarding the end of the holding over arrangement.**

1. Transwa.
2. Albany Model Railway Association Inc.
3. Spectrum Theatre Inc.

CARRIED 9-3

CSF167: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HORTIN
SECONDED: COUNCILLOR CALLEJA

THAT Council ENDORSES the following leases to remain on holding over arrangements pending determination of the future use and management of the Proudlove Precinct, subject to providing lessees with no less than four (4) months notice regarding the end of the holding over arrangement.

1. Transwa.
2. Albany Model Railway Association Inc.
3. Spectrum Theatre Inc.

CSF167: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ENDORSES the following leases to remain on holding over arrangements pending determination of the future use and management of the Proudlove Precinct, subject to providing lessees with no less than four (4) months notice regarding the end of the holding over arrangement.

4. Transwa.
5. Albany Model Railway Association Inc.
6. Spectrum Theatre Inc.

BACKGROUND

Transwa

2. In September 1994, the then Town of Albany approved a sub-lease between the Albany Tourist Bureau Inc. and Westrail (now Transwa) for the purpose of ticketing office activities. The lease area of approximately 28m² returns a set nominal rental of \$10 plus GST per annum.
3. In July 2005 the City assumed management of the Albany Tourist Bureau and as such control of the lease with Westrail under the same terms and conditions, including rent.
4. Since the lease expiry on 29 June 2014, Transwa has remained at the property under holding over arrangements.
5. The remainder of the Railway Station is used as the Albany Visitor Centre. It is noted that the relocation of the Albany Visitor Centre to a more central and prominent location is being considered.
6. The Railway Station is located on Crown Reserve 42793.

Albany Model Railway Association Inc.

7. The Albany Model Railway Association has occupied part of the Bond Store under lease arrangements since July 2000. The lease area of approximately 209m² returns a rental being the equivalent of minimum rate set by Council each year, currently \$896 plus GST.
8. The Association has confirmed it will remain at the property on holding over arrangements, past the lease expiry on 30 June 2015.
9. The remainder of the Bond Store is being used for City storage of the art collection and library archives, although the library archives are in the process of vacating this space.
10. The Bond Store is located on Crown Reserve 42792.

Spectrum Theatre Inc.

11. Spectrum Theatre has occupied part of the Old Albany Post Office under lease arrangements since 1985. The lease area of approximately 255m² returns a rental being the equivalent of minimum rate set by Council each year, currently \$896 plus GST.
12. The City has confirmed with Spectrum Theatre that holding over arrangements will automatically apply beyond lease expiry on 31 July of this year.
13. The remainder of the Old Albany Post Office is leased to the University of Western Australia for a term of 20 years expiring 31 July 2021 for a peppercorn rent.
14. The Old Albany Post Office is located on City owned land in freehold title.

DISCUSSION

Proudlove Precinct

15. In response to ongoing discussions regarding the expansion of tertiary opportunities in the City and the need to stimulate and redevelop under-used areas of the Central Business District, the City has been reviewing opportunities within the Proudlove Precinct.
16. Discussions have been held with key representatives of the University of Western Australia on the potential for their uptake of buildings and land in the Proudlove Precinct.
17. These considerations also relate to the proposed relocation of the Albany Visitors Centre to a more central and prominent location and the potential impact this may have on other uses within the Railway Station and Bond Store. The City is awaiting the outcome of funding applications to undertake the proposed relocation.
18. A preliminary concept plan for the future redevelopment of the Proudlove Precinct has been prepared and was presented to Council at the Strategic Workshop held on 17 February 2015. While no formal resolution of Council has occurred, there was general support for the concept plan and for ongoing discussions to occur.

Leases

19. The Proudlove Precinct is being considered for redevelopment in order to achieve the best use of centrally located land, however these considerations are only in the early stages. To allow time for further planning and engagement processes, the leases located within the Proudlove Precinct have not been renewed upon expiry. This maintains a greater level of flexibility and opportunity for the future improvement of this Precinct.
20. The lessees continue to occupy the property on a holding over basis as a tenant from month to month in accordance with the terms of the Lease. The terms and conditions during the holding over period are the same as under the existing lease, except in respect of the lease term. All lessees are obliged to meet all of the lease terms unless otherwise agreed.
21. The holding over basis allows for termination by one month's notice by either party. The City has agreed to provide no less than four (4) months notice regarding the end of the holding over arrangements and will endeavour to provide a longer period of notice, if possible.
22. It is noted that both Transwa and Albany Model Railway Association have signed correspondence acknowledging their holding over arrangements. These arrangements acknowledge that the City will give at least three months notice. City staff have recently met with Spectrum Theatre and anticipate receiving similar signed correspondence shortly, however, they requested at least four months notice.
23. It is anticipated that all leases will remain on holding over pending Council's decision on the future of the Proudlove Precinct. It is further noted that in the planning considerations for the Proudlove Precinct, possible options and opportunities for these lessees are being considered.
24. It is envisaged there will be no impact on the current lease with UWA.

GOVERNMENT & PUBLIC CONSULTATION

25. No Government consultation for leases on holding over is required. Should Council consider renewing the leases in the future, then Minister for Lands consent will be sought for those occupying Crown land.
26. No public consultation for leases on holding over is required. Should Council consider renewing the leases in the future, then advertising requirements in accordance with Section 3.58 of the *Local Government Act 1995* will be carried out.

STATUTORY IMPLICATIONS

27. There are no statutory implications related to this report.

POLICY IMPLICATIONS

28. The recommendation is consistent with Council Policy – Property Management – Leases and Licences.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Rating	Mitigation
<u>Organisations Operations</u> Council renews leases prior to future of the precinct being determined – potential planning constraints	Unlikely	Moderate	Medium	Endorse recommendation to continue leases on holding over basis.
<u>Reputation</u> Council terminates leases	Unlikely	Moderate	Medium	Seek to negotiate terms to Council satisfaction. Consider relocation assistance. Ensure open communication with lessees.

FINANCIAL IMPLICATIONS

30. There are no financial implications associated with lease holding over arrangements. Lessees are obliged to meet all of the terms and conditions of the existing lease during the holding over period including payment of rent.

LEGAL IMPLICATIONS

31. Lease holding over arrangements are in accordance with the terms and conditions of the existing leases.

ENVIRONMENTAL CONSIDERATIONS

32. There are no environmental considerations.

ALTERNATE OPTIONS

33. Council may:
- a. Continue existing lease holding over arrangements;
 - b. Decide to terminate lease holding over arrangements; or
 - c. Consider renewing the leases.
34. Should Council seek to renew the leases this may limit potential tertiary education expansion and redevelopment opportunities within the Proudlove Precinct.
35. Should Council seek to terminate the lease holding arrangements, notice will be given to vacate and make good the property. Transwa, Albany Model Railway Association and Spectrum Theatre will need to find alternative locations if they wish to continue providing similar services and activities. Council may consider some sort of assistance with relocation.

SUMMARY CONCLUSION

36. The City is reviewing opportunities within the Proudlove Precinct to facilitate potential expansion of tertiary services and better use of Central Business District areas.
37. To allow further time for planning and community engagement processes, the current leases within the Proudlove Precinct to Transwa, Albany Model Railway Association and Spectrum Theatre are not being renewed on expiry.
38. The lessees continue to occupy property within the Proudlove Precinct on holding over arrangements in accordance with the terms and conditions of the existing leases.
39. It is recommended that Council endorses the lease holding over arrangements within the Proudlove Precinct.

Consulted References	:	<ul style="list-style-type: none">• Council Policy – Property Management – Leases and Licences• <i>Local Government Act 1995</i>
File Number (Name of Ward)	:	PRO078 (A157843) ,PRO095 (A140428) & PRO273 (A140446) (Fredrickstown Ward)
Previous Reference	:	Nil

CSF168: FINANCIAL ASSISTANCE GRANTS PROGRAM

Proponent : City of Albany
Report Prepared by : Manager Finance (D Olde)
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:** 5. Civic Leadership.
 - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
 - c. **Strategic Initiative:** 5.1.1 Implement systems and controls that ensure the prudent use of rates.

In Brief:

- Council is requested to acknowledge the importance of annual Financial Assistance Grants program.

RECOMMENDATION

CSF166: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR BOWLES

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-3

CSF168: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- (1) Acknowledges the importance of federal funding through the Financial Assistance Grants program for the continued delivery of councils services and infrastructure;
- (2) Acknowledges that the council will receive only \$3.875 million in 2014/15; and
- (3) Will continue to ensure that this federal funding, and other funding provided by the Federal Government under relevant grant programs, is appropriately identified as Commonwealth grant funding in council publications, including annual reports.

BACKGROUND

2. The Financial Assistance Grants program has been in place since 1974/75. The Federal government announced in the 2014 Federal budget that indexation will be frozen until 2017/18.

DISCUSSION

3. The Financial Assistance Grants program has been in place since 1974/75.
4. The City currently receives approximately \$3.8 million p.a. from the program.
5. The grant program is divided into two components – a road grant, and general purpose grant.
6. This grant program is one of the few grant schemes that is untied. That is, Council has a large amount of discretion to spend these funds as they see fit, via the Annual Budget process.
7. The City of Albany acknowledges the importance of this grant to program in the maintenance of the road network, and general service provision to the community.

FINANCIAL IMPLICATIONS

8. The freezing on indexation on Financial Assistance Grants will affect the City of Albany approximately \$60,000 - \$70,000 p.a. and that is approximately 0.25% increase in rates.

SUMMARY CONCLUSION

9. That Council publically acknowledge the importance of the Financial Assistance Grants program.

File Number (Name of Ward)	:	FM.FIR.2 – All wards.
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CSF169: COUNCIL REVIEW OF DELEGATIONS REGISTER

Proponent : City of Albany
Attachments : Delegations Register 2015
Report Prepared by : Manager Governance & Risk Management (S Jamieson)
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 2013-2018:
 - 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:

- Council review and approve the Register of Delegations 2015.

RECOMMENDATION

CSF169: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

CSF169: RESPONSIBLE OFFICER RECOMMENDATION

That the delegations detailed in the Register of Delegations be ADOPTED.

BACKGROUND

2. Under the provisions of the *Local Government Act 1995*, a local authority may delegate some of its powers and duties to the Chief Executive Officer or Committee's of Council to help facilitate the many services it provides to the community.
3. At least once every financial year, the powers and duties delegated under the Local Government Act are required to be reviewed by the delegator.

DISCUSSION

4. A register of Delegations of Authority is essential in order to inform the public of the activities, functions, powers and duties of the Local Government as well meeting the requirements of Section 5.46 of the *Local Government Act 1995* (the Act).
5. This Act requires the Chief Executive Officer (CEO) of the Local Government to keep a Register of Delegations made by the Council to a Committee or the Chief Executive Officer, and by the CEO to other employees.
6. The compilation of the content of this Register was prepared through references to the Act, the Complete Guide to The Local Government Act 1995 (which is a joint production of the Western Australian Municipal Association, the Institute of Municipal Management (WA Division) and the Western Australia Department of Local Government.
7. Section 5.42 of the Act allows Council to delegate to the Chief Executive Officer and/or Committee.
8. Delegations have been grouped by function.

GOVERNMENT AND PUBLIC CONSULTATION

9. Detailed in the discussion section of the report.

STATUTORY IMPLICATIONS

10. Detailed in the discussion section of the report.

Delegation to CEO

11. Section 5.42 of the Act enables the delegation of some powers and duties to the Chief Executive Officer:

"1) A local government may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.

A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation."

Delegation to Committees

12. Section 5.16 and 5.17 of the Act enables the delegation of some powers and duties to a committee:

“1) Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than the power to delegate;

2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.”

Delegations to be reviewed every financial year

13. Under the provisions of section 5.46 (2) of the Act, delegations must be reviewed by the delegator at least once every financial year.

Appointment of authorised persons

14. Section 9.10 of the Act. The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions.

Transfer of Authority Due to Absence

15. Where an Officer not named has been appointed by Council or by an Officer authorised to make the appointment to act in a position to which the named Officer is appointed, the authority shall transfer to the Officer acting as appointed, for the duration of Council authorisation.
16. Where a named Officer holding a delegation is temporarily absent and no Officer has been appointed to act in the position, the authority will transfer to the relevant Executive Director or Senior Manager for the period of absence.

Proposed, Amended Delegations

17. New, deleted and proposed amendments are detailed in the version control section of the register.

POLICY IMPLICATIONS

18. Nil

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Legal & Compliance. Non compliance with the City’s statutory requirement to review the delegations every financial year.	Unlikely	Moderate	Medium	Review and bring back to Council for adoption prior to 30 June 2015.

FINANCIAL IMPLICATIONS

20. Nil.

LEGAL IMPLICATIONS

21. Refer to statutory implication section of report.

ENVIRONMENTAL CONSIDERATIONS

22. There are no direct environmental considerations related to this report.

SUMMARY CONCLUSION

23. That the review delegations register (attached) be adopted.

Consulted References	:	<i>Local Government Act 1995.</i> <i>Local Government: Operational Guidelines. Number 17 – January 2007 – Delegations.</i>
File Number (Name of Ward)	:	PE.AUT.1 (All Wards)
Previous Reference	:	OCM 24/03/2015 Report Item WS068 OCM 10/06/2014 Report Item CSF094

CSF170: LEGAL SETTLEMENT 63 BEAUFORT STREET YAKAMIA

Land Description : 63 Beaufort Street, YAKAMIA
Attachments : Confidential Briefing
Report Prepared by : Executive Director Works and Services. (Matt Thomson)
Responsible Officer : Deputy Chief Executive Officer (Garry Adams).

Responsible Officer's Signature:



CONFIDENTIAL REPORT

In accordance with section 5.23 (2)(b) of the *Local Government Act 1995*, this report will be dealt with as a confidential item, as it pertains to the personal affairs of a person.

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2018:
 - 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:

- Over a number of years, there has been a legal dispute with respect to drainage issues and alleged flooding at 63 Beaufort Street, Yakamia.
- A settlement position has been reached and requires Council consideration.

RECOMMENDATION

CSF170: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR HORTIN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

CSF170: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council AGREE to the proposed settlement arrangement as set out in the attached confidential briefing note.

BACKGROUND

2. Legal proceedings have resulted from a protracted dispute in respect to alleged flooding at subject site (*as detailed in the confidential briefing note*).
3. The City's insurance broker Local Government Insurance Services (LGIS) appointed legal representation through DLA Piper (Perth).
4. The City, appointed legal representative and the plaintiff participated in mediation in the Supreme Court of Western Australia on 15 April 2015 where a settlement position was reached.

DISCUSSION

5. Advice in relation to the matter is provided in the attached confidential briefing note.
6. The advice includes a proposed settlement arrangement which will be progressed if agreed.

GOVERNMENT & PUBLIC CONSULTATION

7. No government consultation was conducted in relation to this report.

STATUTORY IMPLICATIONS

8. There are no specific statutory implications in relation to this matter.

POLICY IMPLICATIONS

9. Nil.

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>Legal and Compliance If settlement terms are not agreed, matter could proceed to trial</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Agree to the proposed settlement arrangements.</i>

FINANCIAL IMPLICATIONS

11. Financial implications are detailed in the attached briefing note. There is an existing capital budget line which makes provision for drainage improvements in the area.
12. No additional expenditure is necessary.

LEGAL IMPLICATIONS

13. As per the attached briefing note.

ENVIRONMENTAL CONSIDERATIONS

14. Not applicable.

ALTERNATE OPTIONS

15. No alternate options are proposed.

16. Note: Should the proposed settlement arrangements not be supported by Council, the City's appointed legal representative cannot settle the dispute on the City's behalf.

SUMMARY CONCLUSION

17. Mediation in the Supreme Court of Western Australia in respect to a long running dispute between the City of Albany and (then) landowner at the subject site has culminated in a settlement position.
18. It is recommended that the proposed settled arrangements are approved.

Consulted References	:	Local Government Act 1995
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	Nil.

12. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**
13. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
14. **REPORTS OF CITY OFFICERS**
15. **MEETING CLOSED TO THE PUBLIC [6:25:35 PM](#)
MOVED CR GREGSON
SECONDED CR HOLLINGWORTH**

CSF170: Legal Settlement
16. **MEETING REOPENED TO THE PUBLIC [6:43:00 PM](#)
MOVED CR HAMMOND
SECONDED CR SUTTON**
17. **CLOSURE [6:43:46 PM](#)** there being no further business the Chair declared the meeting closed.

(Unconfirmed Minutes)

Councillor G Stocks
CHAIR