

**ED025: TEMPORARY/SHORT TERM EXTENDED TRADING HOURS APPLICATION**

**Proponent** : City of Albany  
**Attachments** : ACCI letter dated 15 September 2015  
City of Albany Temporary/Short Term Extended Trading Hours Policy  
**Responsible Officer** : Executive Director Economic Development & Commercial 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. The Albany Chamber of Commerce and Industry (ACCI) have requested Council consider applying for a temporary/short term extension to retail trading hours for the “*January Tourist Season 2016*” being 1 January to 31 January 2016 inclusive.

**RECOMMENDATION**

**ED025: RESPONSIBLE OFFICER RECOMMENDATION**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT ED025: Temporary/Short Term Extended Trading Hours Application be ACCEPTED for consideration by Council.**

**Officer's Reason (ED Economic Development and Commercial Services):**

The request for extended retail trading for the January tourist season 2016 was received by the City on 16 September 2015. The Agenda for the Ordinary Council Meeting to be held on 22 September 2015 had been distributed by this date.

The Department of Commerce require up to six weeks for the approval process. In addition, the City requires time to advise stakeholders and advertise the change in extended trading hours.

**ED025: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council APPROVE the ACCI's request and apply to the Department of Commerce for a temporary/short term extension to retail trading hours for the period 1 January to 31 January 2016 inclusive.**

**BACKGROUND**

3. There are two types of adjustment applications that can be applied for by non metropolitan local government authorities;
  - i. "Temporary/Short Term Adjustments" and
  - ii. "Permanent/Long Term Adjustments".
4. This item is only concerned with a Temporary/Short Term Adjustment for the month of January 2016.
5. Permanent/long term adjustments require substantial consultation and support from local trader organisations, tourism interests, members of State Parliament and the community. 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.
6. In the absence of this, the City is required to apply for temporary/short term adjustments if extended retail trading is required for identified high visitor periods such as popular holidays and when Albany hosts large events.
7. Council approved the updating of the City of Albany's Temporary/Short Term Extended Trading Hours Policy in May 2014. Copy attached.
8. The policy defines peak times and special circumstances and provides the CEO with delegated authority to make applications to the Department of Commerce (Department) during these times without the need for Council review.
9. Peak Times are defined as Christmas and New Year period (1 December to 1 January inclusive), Easter Holidays (Good Friday to Easter Monday inclusive), public holiday weekends, and public holidays excluding Christmas Day and Good Friday.
10. The Albany Chamber of Commerce and Industry (ACCI) have requested Council consider applying for a temporary extension to retail trading hours for the "January Tourist Season 2016". Copy of letter attached.
11. The ACCI's request for temporary extended opening hours during January 2016 is outside the definition of peak and special circumstances times as defined in the current policy and therefore requires Council approval.

**DISCUSSION**

12. The ACCI letter makes the following statements in support of its request;
  - a) *"For many years we have extended the trading hours for General Retail Shops prior to Christmas, but recent trends in consumer behaviour have seen many people invest heavily in retail sales after Christmas".*

- b) *Albany has a large population growth during the school holidays and it is the opinion of ACCI that to truly maximise this visitor experience and to assist local businesses, extending retail trading hours during this period would be another step forward for our region.*
- c) *It is the belief of the ACCI and its members that this would enhance the tourism appeal of the region.”*

13. The month of January is considered a peak visitor period for Albany and surrounds. This is supported by strong historical visitation data shared amongst regional visitor centres and major visitor attractions. Commercial accommodation operators in the region also experience highest average monthly occupancy levels as evidenced from Australian Bureau of Statistics data.
14. If this item is approved, General Retail Shops in Albany will be allowed to temporarily open Monday to Friday 8am to 9pm, Saturdays 8am to 5pm, and Sundays 10am to 5pm for the month of January 2016. Public holidays during this period (1<sup>st</sup> and 26<sup>th</sup>) would have opening hours of 10am to 5pm only.
15. This item is only concerned with a temporary/short term adjustment to retail trading for the month of January 2016.
16. As per the current policy the City will automatically apply to the Department for extended trading hours for the period 1 December 2015 to 1 January 2016 under the peak times definition. If Council approve this motion then this application will be extended to include the 1 December 2015 to 31 January 2016 period.
17. As per the current policy the City CEO will undertake a review of the impacts of this temporary extension and include findings as part of the review position before 30 June 2016.
18. If 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**

19. The Albany Chamber of Commerce and Industry Inc is a representative of the affected segment of the population and is the proponent of the requested application.
20. If the motion is approved by 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 the month of January 2016.

## **STATUTORY IMPLICATIONS**

21. 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**

22. If the motion is approved, the current Council policy for Extended Trading Hours will remain unchanged.

23. The current policy is required to be reviewed by the City's CEO on or before 30 June 2016.

**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>If not approved the ACCI may claim Council's decision is not reflective of the wishes of its membership and cause reputational risk to the City.</i>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<i>City approve the requested changes for the month of January 2016 and review the impacts of these changes as part of its ongoing review of extended trading hours 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 the January summer school holiday period.

**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 motion will reflect the wishes of the local ACCI retail membership and support a number of the strategic objectives under the City's theme of Smart, Prosperous and Growing.

30. If approved, City officers will apply to the Department of Commerce (Consumer Protection) for a temporary extension to trading over the January 2016 period.

<b>Consulted References</b>	:	<i>Retail Trading Hours Act 1987 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