



MINUTES

ECONOMIC DEVELOPMENT COMMITTEE

5 July 2016

6.00pm

City of Albany Council Chambers

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

VISION

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

VALUES

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

Focused: on community outcomes

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

United: by working and learning together

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

Accountable: for our actions

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

Proud: of our people and our community

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

TERMS OF REFERENCE

(1) Function:

The Economic Development Committee is responsible for:

- (a) Considering and recommending to Council ways to strengthen the local Albany economy; and
- (b) Delivering the following Smart, Prosperous and Growing Objectives contained in the City of Albany Strategic Plan:
 - (i) To foster links between education, training and employment that support economic development.
 - (ii) To strengthen our region's economic based.
 - (iii) To develop and promote Albany as a unique and sought after visitor destination.

(2) It will achieve this by:

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

(3) Chairperson: Councillor Hollingworth

(4) Membership: All Elected Members

(5) Meeting Schedule: As required

(6) Meeting Location: Council Chambers

(7) Executive Officers: Executive Director Commercial Services

(8) Delegated Authority: The Committee does not have delegated authority from Council.

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1. **DECLARATION OF OPENING** The Chair declared the meeting open at 6.00pm

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

D Wellington

Councillors:

Member

B Hollingworth (Chair)

Member

R Hammond (Deputy Chair)

Member

A Goode JP

Member

G Stocks

Member

S Smith

Member

R Sutton

Member

J Shanhun

Member

C Dowling

Member

P Terry

Staff:

Chief Executive Officer

A Sharpe

Executive Director Corporate Services

M Cole

Manager Tourism Development Services

M Bird

Albany Heritage Park Manager

M Hammond

Minutes

C Crane

Apologies:

Executive Director Commercial Services

C Woods

Member

J Price

Note: Manager of Tourism Development Services informed the meeting that the following Albany Chamber of Commerce and Industry (ACCI) had sent an apology:

C Bergsma

R Clarke

4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest
Cr P Terry	ED036	Impartiality
Mayor Wellington	ED036	Financial

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE Nil.

6. PUBLIC QUESTION TIME

- P Lionetti spoke to the item of ED035 – community consultation with retailers.
- I Rayson spoke to the item of ED035 – deregulation of trading hours

7. PETITIONS AND DEPUTATIONS Nil.

8. CONFIRMATION OF MINUTES

MOTION

MOVED: COUNCILLOR STOCKS

SECONDED: COUNCILLOR HAMMOND

THAT the minutes of the Economic Development Committee Meeting held on 7 June 2016, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 10 - 0

9. PRESENTATIONS - Nil

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS – Nil

11. OFFICER REPORTS

ED035: NATIONAL ANZAC CENTRE ADVISORY GROUP

Land Description	: Albany Heritage Park Precinct
Proponent / Owner	: City of Albany
Business Entity Name	: City of Albany
Attachments	: <ul style="list-style-type: none">• <i>Proposed Amended Terms of Reference – National Anzac Centre Working Group</i>
Report Prepared By	: <i>Manager Governance, Risk & IT Services (S Jamieson)</i> <i>Executive Director Commercial Services (C Woods)</i>
Responsible Officers:	: Executive Director Commercial Services (C Woods)

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:** 1. Smart Prosperous and Growing.
 - b. **Strategic Objectives:**
 - 1.2 To strengthen our region's economic base.
 - 1.3 To develop and promote Albany as a unique and sought after destination.
 - c. **Strategies:**
 - 1.2.2. Strengthen our economy by supporting business innovation and diversity
 - 1.3.1. Encourage, support and deliver significant events that promote our region.
 - 1.3.2. Promote the Albany region as a sought after and iconic tourism destination.

In Brief:

- Review and approve the National Anzac Centre Advisory Group's Terms of Reference (noting this defines the membership of the external stakeholders)
- Approve the Chairperson nomination and remuneration.

RECOMMENDATION

The Economic Development Committee resolved to recommend to Council:

ED035 ECONOMIC DEVELOPMENT COMMITTEE RECOMMENDATION

- (1) **THAT the Amended National Anzac Centre Advisory Group Terms of Reference be ADOPTED.**
- (2) **That the nomination from the designated external stakeholders be ACCEPTED and those stakeholder representatives be APPOINTED as members of the National Anzac Advisory Group.**
- (3) **That the proposed nomination for Chairperson be ACCEPTED and APPOINTED.**

ED035 RESPONSIBLE OFFICER RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR DOWLING

- (4) THAT the Amended National Anzac Centre Advisory Group Terms of Reference be ADOPTED.
- (5) That the nomination from the designated external stakeholders be ACCEPTED and those stakeholder representatives be APPOINTED as members of the National Anzac Advisory Group.
- (6) That the proposed nomination for Chairperson be ACCEPTED and APPOINTED.

CARRIED 10 – 0

BACKGROUND

2. On 26 April 2016 Council resolved:

“THAT:

- (1) *The Terms of Reference for the National Anzac Advisory Group be AMENDED to require the Chief Executive Officer to present to Council for endorsement, the Chair and Members of the Advisory Group.*
- (2) *The Amended Terms of Reference be ENDORSED by Council.”*

DISCUSSION

3. Post the Council meeting held in April, an addition review of the terms of reference was conducted by the proposed Chairperson in consultation with City officers.
4. The external review confirmed that the decision by Council to oversee the appointment of the Chair and Deputy Chair was right decision.

Terms of Reference:

5. The review recommended that the advisory working groups terms of reference be amended to:
 - a. Expand the membership of the group up to a maximum of 9 members;
 - b. Extend the stakeholder representation:
 - (i) for the RSL to the state executive (WA Branch RSL);
 - (ii) include the Department of Premier and Cabinet (DPC);and
 - c. Define the nomination process for the Chairperson and Deputy Chairperson separately, being:
 - (i) Chairperson. An independent Chairperson may be nominated by the Mayor in liaison with the Council.
 - (ii) Deputy Chairperson. The Deputy Chairperson of the group be nominated by the Mayor in liaison with the Council. The Deputy Chair will be drawn from the other member of the group.

Chairperson:

6. A proposed candidate for the position of Chairperson has been identified by the Mayor and Chief Executive Officer for consideration by Council. *(Note: The name and associated biography will be presented to Council under confidential cover).*
7. The name of the Chairperson will be made public once the nomination has been endorsed by Council and the offer accepted.
8. The position of Deputy Chairperson will be presented to Council endorsement will be presented at a later date.

GOVERNMENT & PUBLIC CONSULTATION

9. The advisory working groups amended terms of reference was drafted based on consultation with the proposed Chairperson.
10. The Department of Local Government was consulted in regards to remuneration of working group members.

STATUTORY IMPLICATIONS

11. Two operational models were considered in the formation of the advisory group.
 - a. Model One. Establish the advisory working group as a Committee of Council under section 5.8 of the *Local Government Act 1995* (the Act); and
 - b. Model Two. Establish the advisory working group as an Operational Working Group (not as a Committee Council) and engage the Chairperson as a consultant.
12. The establishment of the advisory group as a working group enables staff, elected members and community representatives to discuss operational matters and provide strategic oversight of the National Anzac Centre and where appropriate other elements of the Albany Heritage Park.
13. For matters that cannot be implemented under delegated authority, recommendations will be staffed through and critiqued by a Council Committee (*i.e. Economic Development Committee*) prior to be presented to Council for resolution.
14. As members of the group are not being appointed to a Committee of Council the voting requirement is Simple Majority.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Financial.</p> <p>Risk: <i>If working group is not supported, there is a risk of not securing grant funding.</i></p> <p>Opportunity: <i>The combined expertise of the group has the potential to increase the financial performance of the NAC and the Albany Heritage Park.</i></p>	Likely	Major	Medium	<i>Endorse the Amended Terms of Reference and appoint the recommended Chair.</i>
<p>Reputation.</p> <p><i>Continued financial support from the Department of Premier and Cabinet is subject to the condition of establishment of an Advisory Working Group.</i></p> <p>Risk: <i>Failure to proceed with the establishment of the group risks the strong and cooperative relationship that has been established with our key stakeholders.</i></p>	Almost Certain	Moderate	High	<i>Endorse the Amended Terms of Reference and appoint the designated external stakeholder representatives.</i>
<p>Organisations Operations.</p> <p>Risk: <i>If remuneration of the Chair is not supported, there is a risk that the position would not be filled by the proposed candidate.</i></p>	Almost Certain	Moderate	High	<i>Allow City Officers to negotiate a suitable remuneration; or identify another suitable candidate to be appointed by Council.</i>

FINANCIAL IMPLICATIONS

17. The City of Albany will be responsible for the cost of travel and accommodation for board members.
18. The working group will formally meet three to four times per year, with two meetings forecast to meet in Perth.
19. The cost of travel, meals and accommodation has been forecast to cost \$22,000 per financial year.
20. It is proposed that the working group's Chairperson receive an annual fee of \$8,000 dollars per annum, plus expenses.

LEGAL IMPLICATIONS

21. There are no legal implications related to this report.

ENVIRONMENTAL CONSIDERATIONS

22. There are no environmental implications related to this report.

ALTERNATE OPTIONS

23. Council could chose to establish the advisory working group as a Committee of Council under the *Local Government Act 1995*. However, Committees of Council must be run in accordance with the conditions prescribed in the Act and regulations.

24. The requirement to give public notice of the date and agenda for council or committee meetings does not compliment the objectives of the terms of reference as the group meets as an operational advisory group.

CONCLUSION

25. It is recommended that the Responsible Officer's Recommendation to establish the advisory group as an operational working group be approved and the proposed nomination for Chair be endorsed.

Consulted References	:	<i>Local Government Act 1995</i>
File Number (Name of Ward)	:	All Wards
Previous Reference	:	OCM 26/04/2016 Resolution ED032

**ED036: RETAIL TRADING HOURS –TEMPORARY/SHORT TERM
EXTENDED TRADING HOURS POLICY**

Proponent / Owner	: City of Albany
Attachments	: 1. PROPOSED Temporary/Short Term Extended Trading Hours Policy 2. CURRENT City of Albany Temporary/Short Term Extended Trading Hours Policy 3. Copies of various correspondence received 4. List of Albany General Retail businesses 5. Central Area Precinct Map
Report Prepared By	: Manager Tourism Development & Services (M Bird)
Responsible Officers:	: Executive Director Commercial Services (C Woods)

Responsible Officer's Signature:



Declaration of Interest: Mayor Wellington – Financial, Cr Terry – Impartiality.

Mayor Wellington left the Council Chamber at 6.30pm and did not participate in the vote and did not return to the Chamber. Cr Terry remained in the Council Chamber and participated in the vote.

Mayor Wellington requested to the Committee to allow him to remain in the Chamber until the moving of the vote.

MOTION

**MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR DOWLING**

That Mayor Wellington stays in the room until the moving of the vote.

CARRIED 9 - 0

STRATEGIC IMPLICATIONS

1. This item directly relates to the following elements from the City of Albany Community Strategic Plan – Albany 2023 and the Corporate Business Plan 2014 - 2018.
 - a. **Key Themes:**
 - 1. Smart Prosperous and Growing.
 - b. **Strategic Objective:**
 - 1.2 To strengthen our region's economic base.
 - 1.3 To develop and promote Albany as a unique and sought after destination.
 - c. **Strategies:**
 - 1.2.1 City Centre revitalisation resulting in increased activity.
 - 1.2.2 Strengthen our economy by support by supporting business innovation and diversity.
 - 1.3.2 Promote the Albany region as a sought after and iconic tourism destination.

In Brief:

- Review the revised Temporary/Short Term Extended Retail Trading Hours Policy; and
- Assess the Responsible Officer's recommendation in regards to Retail Trading Hours.

RECOMMENDATION

The Economic Development Committee resolved to recommend to Council:

ED036: ECONOMIC DEVELOPMENT COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SMITH

SECONDED: COUNCILLOR SUTTON

- 1). **The REVISED Temporary/Short Term Extended Trading Hours Policy (attachment 1) be ADOPTED subject to the following amendments; Paragraph 4 Definitions**
 - **Peak Visitor times be changed to 15 December to 31 January, Easter Holidays (Easter Saturday to Easter Monday inclusive) public holiday long weekends, and public holidays excluding Christmas day and Good Friday.**
 - **Special Circumstances be altered to delete the wording "On arrival of a cruise ship or"**
 - **Cruise Ships definition to be removed in full.**
- 2). **Part 2 & 3 of the officer's recommendation be deleted.**

CARRIED 9 – 0

Councillor Comment and Reasons:

At the last Workshop regarding review of the options around possible amendments to the Current Temporary/Short term policy, Councillors were keen to reconsider the "when" definition of Peak Times to alter from 1st - 31st Dec to 15th Dec to 31st Jan after the trial of Jan 2016, and to remove references to "cruise ships" under Special Circumstances.

There was no direction given by Council to the Officers regarding any further consideration, reporting, or community consultation of Permanent /Long Term Extended Retail Trading adjustments. Accordingly, items (2) and (3) should be removed altogether from the recommendation.

ED036: AMENDED RESPONSIBLE OFFICER RECOMMENDATION

- 1) The REVISED Temporary/Short Term Extended Trading Hours Policy (attachment 1) be ADOPTED.
- 2) At this point in time that no action be taken in relation to Permanent/Long Term Extended Retail Trading adjustments.
- 3) A report to be presented to Council in 2019 to consider undertaking community consultation in relation to Permanent/Long Term Extended Retail Trading adjustments.

Officer Comment and Reasons:

The intent of the original Officer Recommendation was to seek to clarify Council's position on Permanent/Long Term Extended Retail Trading.

The rationale to conduct a referendum on Permanent/Long Term Extended Retail Trading to coincide with the 2019 ordinary local government election was to reduce survey costs and obtain a large number of responses.

However, it is not considered good governance as there is a real reputation risk to address a single highly divisive issue that has the potential to dominate and influence a future election.

It is recommended that Permanent/Long Term Extended Retail Trading is not considered until 2019. At that time Council of the day can then determine whether to further investigate and review the current policy position.

A report will be presented to Council in 2019 to consider undertaking community consultation on Permanent/Long Term Extended Retail Trading adjustments.

ED036: RESPONSIBLE OFFICER RECOMMENDATION

- (1) The REVISED Temporary/Short Term Extended Trading Hours Policy (*attachment 1*) be ADOPTED.
- (2) The Officer's Recommendation to conduct an independent assessment of Permanent/Long Term Extended Retail Trading adjustments be undertaken and put to the Community at the local government election in October 2019 be APPROVED.

BACKGROUND

2. General retail trading hours in Albany are governed by the WA State Government's *Retail Trading Hours Act 1987* (the RTH Act) in conjunction with the Council's Temporary/Short Term Extended Trading Hours policy adopted April 2014 (*current policy detailed at attachment 2*)
3. The RTH Act defines four categories of retail shops: General Retail, Small Retail, Special Retail, and Filling Stations.
4. All shops are regarded as General Retail shops unless they fall under any one of the other categories.
5. The trading hours of restaurants, cafes and takeaway food shops are not covered by the RTH Act.
6. Small Retail, Specialty Retail and Filling Station businesses have their own respective trading hour provisions and definitions.
 - A Small Retail shop has no restrictions on trading hours and may be open at any time. It is defined as owned by up to six people who operate no more than four retail shops, in which up to 25 people work at any one time. They may sell any goods other than motor vehicles. Traders must apply to the Department for a certificate to trade as a small retail shop. Shops in this category can trade 24 hours per day, every day of the year.
 - A Specialty Retail shop is considered necessary for emergency, convenience or recreation goods and include pharmacies, garden nurseries, hardware, newsagencies, bookshops, video, souvenir, boating, and motor vehicle spare parts shops. Traders must apply to the Department for a certificate to trade as a Special Retail shop. Trading hours are 6am – 11.30pm every day of the year.

- A Filling Station is defined as any business that sells motor fuel and has no restrictions on trading hours and may be open at any time.
7. Small Retail and Specialty Shops must apply for certification from the Department of Commerce (the Department) in relation to that place in accordance with the regulations. Compliance is enforced by the Department and not the City of Albany.
 8. Non-metropolitan Local Governments, such as the City of Albany may apply to the Department of Commerce (Consumer Protection) to extend the trading hours for local General Retail shops beyond those stipulated in the RTH Act.
 9. There were 3,328 registered businesses in Albany in 2015 with 227 categorized as Retail Trade (source ABS Counts of Australian Businesses, Cat. No. 8165.0).
 10. There are an estimated 57 General Retail businesses located within the Albany local government boundary (detailed at attachment 4).
 11. There are two types of retail trading hour adjustment applications that can be applied for by non-metropolitan local government authorities, being:
 - “*Temporary/Short Term Adjustments*”; and
 - “*Permanent/Long Term Adjustments*”.
 12. Permanent/Long Term Adjustments to trading hours require substantial consultation and support from the community, local businesses with retail trading and tourism interests and local members of State Parliament.
 13. **In May 2005** support for Permanent/Long Term Trading Hour Adjustments was sought through a state government initiated referendum.
 14. **In August 2012**, the City conducted detailed community consultation process, which included:
 - an online community survey,
 - a community public forum,
 - an online business survey,
 - business focus group,
 - random community telephone survey, and
 - individual stakeholder interviews.
 15. A summary of Results from City endorsed community consultation follows when responding to the question of support for 7 day trading:

Activity	Return Rate	For	Against	Neutral
2005 State Referendum	<i>13,095 of 22,310 electors voted.</i>	46.4%	53.6%	N/A
2012 City On-line Community Survey	<i>attracted 806 responses</i>	44.6%	55.4%	N/A
2012 City On-line business survey	<i>attracted 296 responses, in response to Council adopting a policy position of deregulated trading.</i>	44.8%	55.2%	N/A
2012 City Random Telephone Survey	<i>400 local residents were surveyed</i>	43%	43%	14%

16. No clear mandate for any permanent change to the current retail trading hours was identified in either the 2005 or 2012 responses.
17. The issue of 7 day trading was recently re-ignited after the Albany Chamber of Commerce and Industry surveyed its membership on the issue and results were publicized via local media in early 2016.

Permanent/Long Term Retail Trading Hour Adjustments Process

18. The process for reviewing and potentially adopting changes to Permanent/Long Term Retail Trading Hour Adjustments is as follows:
 - Applications must be requested in writing to the Chief Executive Officer. The application for variation must detail the specific hours, day(s), and the exact area(s) the trading variation will apply to, for example: Local Government Boundaries, street locations or defined precincts.
 - Approval to investigate and appoint an independent research consultant must be supported by a simple majority of Council, as defined in the *Local Government Act 1995* (the Act).
 - Council minutes must give the reason to either support or not support the application to investigate.
 - On receipt of the research findings, Council must consider the findings and decide to support or not support the application by an Absolute Majority of Council, as defined by the Act.
19. The City does not currently have a Permanent/Long Term Retail Trading Hour Adjustment policy position.
20. It is recommended that Council consider adopting a policy position after community and industry views are formally sought and that the process is conducted through the engagement of an independent consultant.
21. In the absence of a policy position in regards to Permanent/Long Term Retail Trading Hour Adjustments, the City is required to apply for Temporary/Short Term Retail Trading Hour Adjustments.

Current Process for Adjusting Retail Trading Hours

22. Albany extended trading applications relate only to General Retail shops.
23. The current practice is to apply for extended retail trading during periods of high visitor numbers, such as popular holiday periods and to accommodate large City hosted events.
24. Applications for temporary adjustments are made largely for the peak Christmas trading periods and significant events in line with the Council's current policy position.
25. Council adopted the Temporary/Short Term Adjustments policy in April 2014 (see attachment 2).
26. A review of the Temporary/Short Term adjustments policy has been undertaken and a number of options are presented for Council consideration. These include:
 - maintain the status quo;
 - slight additions to the current policy;
 - new definitions relating to the "Christmas Trading" and "Peak Visitor" periods; and
 - introducing the concept of an "Albany Central Area Precinct".

DISCUSSION

27. This paper requests Council review its position on retail trading hours.

28. It is requested that Council:

- a. Review the current Temporary/Short Term Trading Hour Adjustments Policy and proposed amendments; and
- b. Defer consideration in regards to Permanent/Long Term Trading Hour Adjustments until Council elections in October 2019 where the issue can be voted on by the local community.

29. Future options regarding retail trading hours (both permanent and temporary) should be instructed by an analysis and discussion of the potential impacts on the City's central business district (or the "Albany Central Area Precinct" as it is referred to in the Albany Central Area Masterplan 2010).

30. Enhancing Albany Central Area revitalisation should remain a guiding principle in all trading hours' discussions.

Temporary/Short Term Retail Trading Hour Adjustment Policy Position

31. Variations to the current Temporary/Short Term Policy can be categorized as modifications to either when and/or where. "When" can relate to time of year, specified days, and the hours within days. "Where" is the geographical location the extended trading provisions are applied and can be either all of local government area or in designated trading precinct(s).

Peak Visitor Periods

32. There is a strong tourism argument to allow extended trading in Albany during historically busy visitor periods, in particular the summer school holidays and Easter holiday periods. Extending trading periods during these times is important to ensure maximum visitor expenditure is injected into the local economy.

33. Ideally these additional retail opportunities from increased visitor numbers should be concentrated into the city centre area. This concentration should create enough critical mass of increased foot traffic for businesses to justify opening. In particular, encourage those currently allowed to open (specialty, small store retailers and hospitality providers) but currently choose not to.

Cruise Ship Visits

34. Cruise Ship Visits have also been identified as a time when Albany experiences a large influx of additional visitors. In the 2015/16 cruise ship season Albany received 11 ships carrying 11,735 passengers and 6,157 crew (source: Albany Port) with only 2 of these visits arriving on a Sunday and requiring an extended trading application.

35. Cruise ship visits largely benefit businesses located in Albany's city centre. It is essential for businesses to be open when cruise ships are in port to ensure maximum economic benefit is received and that Albany is perceived as being a vibrant and an "open for business" visitor destination.

36. Typically, many smaller retailers will make the decision on whether to open based on the opening hours of the national grocery retailers. Whilst it is unlikely cruise ship visitors will shop at major supermarkets during their visit, the opening of major supermarkets does encourage smaller retailers to trade.

Precinct Approach

37. A review of the effectiveness of other non-metropolitan local government retail trading policies supports the consideration of a city centre/main street retail trading precinct approach rather than a blanket approach that impacts across the entire local government boundary. Whilst each destination has its own issues and considerations (population size, business location dispersal, planning imperatives, economic and community objectives) evidence exists that allowing extended trading across the entire local government

boundary can dilute the potential financial sustainability for traders by reducing the critical mass required to create vibrant and commercially successful retail precincts.

38. However feedback received from the Department of Commerce is that from previous experiences creating “extended trading precincts” can be problematic. Before the metropolitan region became fully deregulated the Department regularly received complaints from traders outside designated metropolitan extended trading precinct areas who claimed to be at a competitive disadvantage. Whilst it is understood that legal options have not previously been pursued it is possible that major retailers and others outside a precinct model would regard this approach as a barrier to competition and could explore legal recourse against the local government authority where a precinct approach is enacted.
39. The Albany Central Area Masterplan 2010 already defines the “Core Area” of the Albany business centre and this definition captures the specialty stores along the entire York St main street spine, two national grocery anchor tenancies within the Albany Plaza and Dog Rock shopping centres, traders along Lockyer Avenue and the start of Albany Highway. An aerial map highlighting the Core Area is included within the Attachment 5.
40. At this stage a precinct approach is not considered appropriate for inclusion within the Temporary/Short Term policy however the merits and risks of this approach should be considered in any future review of a Permanent/Long Term approach.
41. The following OPTIONS for Council’s Temporary/Short Term Policy are listed below;

OPTION A – retain status quo/no changes

- Maintain the current Temporary/Short Term policy.
- Low reputational risk as simply a continuation of current policy.

OPTION B – extend period to include month of January (***officer recommendation***)

- Current Temporary/Short Term policy plus extension to Visitor Peak period to include the full month of January (1 December to 31 January inclusive). This approach was trialled in January 2016 with positive feedback generally received.
- Maintains current extended trading benefits to businesses in Albany local government authority boundary plus extends trading period to include month of January. Alternate dates (as proposed by the Albany Small Business Association) could be 15 December to Australia Day public holiday inclusive however this would be a reduction to the current December trading period.
- Relatively low reputational risk.

OPTION C – implement precinct approach

- Restrict any extended trading benefits to a designated Albany Central Area precinct (see attachment 5 for precinct boundary) rather than the entire local government authority boundary.
- This approach would concentrate trading to the central precinct area creating city centre vibrancy and providing greater opportunity for financial sustainability for those businesses allowed to open.
- Risks include receiving negative feedback from those businesses excluded from the extended trading precinct. Adopting a precinct approach may also

expose the City to potential legal action from major retailers outside of the precinct on barriers to competition grounds.

OPTION D – implement combination of current and precinct approach

- Create new definition of Christmas Trading period (1 December to 31 December) and apply across all local government boundary.
- Redefine Peak Visitor period to include January and Easter school holiday periods plus public holiday long weekends and only applied to defined central area precinct.
- As per Option C, the adoption of a precinct approach may expose the City to legal action and is not considered appropriate for the Temporary/Short Term policy. This approach may be more suited to a Permanent/Long Term policy and should be included in future considerations.

Revised Temporary/Short Term Adjustments Policy

42. *Attachment 1* to this report details the proposed Temporary/Short Term Policy as recommended in this report.

43. The main change proposed for the Policy is to extend the Peak Visitor definition to include the full month of January.

“During Peak Visitor times General retail will adhere to the following specific dates and times:

- 8.00 am – 9.00 pm Monday, Tuesday, Wednesday, Thursday and Friday
- 8.00 am – 5.00 pm Saturday
- 10.00 am – 5.00 pm Sunday
- 10.00 am – 5.00 pm Public holidays
- 12.00 pm – 5.00pm Anzac Day
- CLOSED – Christmas Day and Good Friday”

44. Peak Visitor Period is defined as:

“Summer school holiday period (1 December to 31 January inclusive), Easter Holidays (Easter Saturday to Easter Monday inclusive), public holiday long weekends, and public holidays excluding Christmas day and Good Friday”.

45. Delegated Authority is also given to the Chief Executive Officer to apply to the Minister for Commerce for additional extended trading hours during Special Circumstances defined as:

“On arrival of a Cruise Ship or at other such times that there is expected to be an influx of people to the City at a time external to usual trading hours”.

GOVERNMENT & PUBLIC CONSULTATION

46. The City has prepared the above Policy based on input from the Albany Chamber of Commerce and Industry (ACCI), the Albany Small Business Association, individual retailers and representatives from major shopping centre operators. Copies of various correspondence is included in Attachment 3.

47. The City of Albany has also consulted with the Western Australian Government’s Department of Commerce.

STATUTORY IMPLICATIONS

48. 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

49. If item 1 of the motion is approved the current Council policy for Temporary/Short Term Extended Trading Hours will be replaced with the new policy.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Reputational & Financial.</p> <p><i>Risk: There is a risk that by not having an adopted <u>Permanent/Long Term Retail Trading Hour Adjustment Policy</u> position exposes both proponents and the City to wasting time and financial resources during the application process.</i></p> <p>Opportunities:</p> <ul style="list-style-type: none"> • Improved Consultation: <i>Deferring consideration of Permanent adjustments will allow for the engagement of an independent external review to be conducted and additional stakeholder engagement.</i> • Increased public engagement: <i>By having the decision in regards to Permanent/Long Term Retail Trading Hour Adjustments determined through a City of Albany Referendum in October 2019, may increase public engagement in the local government election process.</i> 	Likely	Minor	Medium	<p>Permanent/Long Term Retail Trading Hour Adjustment policy position: <i>The endorsement of the recommendation to defer consideration until 2019 will mitigate this risk of Council adopting a policy position that may not accurately reflect public expectations.</i></p> <p>Temporary/Short Term Extended Retail Trading Hour Adjustment Policy Position:</p> <p><i>The current policy position is scheduled for review by Council. If Council is not comfortable in adopting the proposed changes, the current policy position can still operate, until such time as a position that is acceptable to Council is adopted.</i></p> <p>Policy Positions in general: <i>City Officers will address issues raised during the review process and represent for Council consideration.</i></p>

FINANCIAL IMPLICATIONS

51. There are no financial implications to City of Albany operations related to this report. However there are financial implication to the General Retail community.

52. Adoption of the revised Temporary/Short Term Trading Hour Policy position will have a financial impact on retailers during extended trading periods (economic benefit or loss).

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

54. Nil.

ALTERNATE OPTIONS

55. Council can decline or modify the policy based on but not limited to the options presented.

CONCLUSION

56. The adoption of the recommendation to defer consideration of Permanent/Long Term Policy will clearly establish Council's position on the issue for the specified period.

57. The proposed changes to the Temporary/Short Term Policy recommends the extension of the current policy to include the summer school holiday month of January under its Peak Visitor period definition.

Consulted References	:	<ul style="list-style-type: none">• <i>Retail Trading Hours Act 1987</i>• <i>Commercial Tenancy (Retail Shops) Agreements Act 1985</i>
File Number (Name of Ward)	:	All Wards
Previous Reference	:	OCM March 2009 Resolution 12.8.2 OCM April 2014 Resolution ED014

12. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE COMMITTEE** – Nil
13. **MEETING CLOSED TO PUBLIC:** - Nil.
14. **NEXT MEETING DATE** Tuesday 2nd August
15. **CLOSURE OF MEETING** The Chair declared the meeting closed at 6.57pm.