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# AGENDA

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## **CORPORATE SERVICES AND FINANCE COMMITTEE MEETING**

**13 September 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 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:** *Councillor Elect*

**(4) Membership:** *Mayor Wellington, Councillor Goode, Councillor Stocks, Councillor Mulcahy, Councillor Hollingworth, Councillor Shanhun, Councillor Hammond, Councillor Terry, Councillor Dowling, Councillor Price, Councillor Smith, Councillor Moir, Councillor Sutton*

**(5) Meeting Schedule:** 2<sup>ND</sup> Tuesday of the Month

**(6) Meeting Location:** Council Chambers

**(7) Executive Officer:** Executive Director Corporate Services

**(8) Delegated Authority:** None

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**1. DECLARATION OF OPENING**

**2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS**

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

*“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	G Stocks (Chair)
Member	A Goode JP (Deputy Chair)
Member	P Terry
Member	S Smith
Member	B Hollingworth
Member	J Shanhun
Member	R Hammond
Member	J Price
Member	N Mulcahy
Member	C Dowling
Member	A Moir
Member	R Sutton

**Staff:**

Chief Executive Officer	A Sharpe
Executive Director Corporate Services	M Cole
Manager Finance	D Olde

Meeting Secretary H Bell

**Apologies:**

Member	B Hollingworth
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**4. DISCLOSURES OF INTEREST**

<b>Name</b>	<b>Committee/Report Item Number</b>	<b>Nature of Interest</b>

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

**6. PUBLIC QUESTION TIME**

**7. PETITIONS AND DEPUTATIONS**

**8. CONFIRMATION OF MINUTES**

**DRAFT MOTION**

**THAT the minutes of the Corporate Services and Finance Meeting held on 9 August 2016, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**9. PRESENTATIONS**

**10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS**

**CSF265: FINANCIAL ACTIVITY STATEMENT – JULY 2016**

**Proponent** : City of Albany  
**Report Prepared by** : Manager Finance (D Olde)  
**Responsible Officer** : Executive Director Corporate Services (M Cole)

**Responsible Officer's Signature:**



**RECOMMENDATION**

**CSF265: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council RECEIVE the Financial Activity Statement for the period ending 31 July 2016**

**BACKGROUND**

1. The Statement of Financial Activity for the period ending 31 July 2016 has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Activity, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

**DISCUSSION**

3. In accordance with section 34(1) of the *Local Government (Financial Management) Regulations 1996*, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
4. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide elected members with a greater insight in relation to the ongoing financial performance of the local government.
5. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. Variations in excess of \$50,000 are reported to Council.
6. These financial statements are still subject to further yearend adjustments and have not been audited by the appointed auditor.

*“Please note that rounding errors may occur when whole numbers are used, as they are in the reports that follow. The ‘errors’ may be \$1 or \$2 when adding sets of numbers. This does not mean that the underlying figures are incorrect.”*

**STATUTORY IMPLICATIONS**

7. Section 34 of the *Local Government (Financial Management) Regulations 1996* provides:
- I. A local government is to prepare each month a statement of financial activity reporting on the source and application of funds, as set out in the annual budget under regulation 22 (1)(d), for that month in the following detail –
    - a. annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
    - b. budget estimates to the end of the month to which the statement relates;
    - c. actual amounts of expenditure, revenue and income to the end of the month to which the statement relate
    - d. material variances between the comparable amounts referred to in paragraphs (b) and (c); and
    - e. the net current assets at the end of the month to which the statement relates.
  - II. Each statement of financial activity is to be accompanied by documents containing –
    - a. an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
    - b. an explanation of each of the material variances referred to in sub regulation (1)(d); and
    - c. such other supporting information as is considered relevant by the local government.
  - III. The information in a statement of financial activity may be shown –
    - a. according to nature and type classification;
    - b. by program; or
    - c. by business unit.
  - IV. A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be –
    - a. presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
    - b. recorded in the minutes of the meeting at which it is presented.

**POLICY IMPLICATIONS**

- 8. The City’s 2016/17 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 July 2016 has been incurred in accordance with the 2016/17 proposed budget parameters.
- 11. 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.

<b>File Number (Name of Ward)</b>	FM.FIR.2 - All Wards
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**CSF266: LIST OF ACCOUNTS FOR PAYMENT – AUGUST 2016**

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

**Responsible Officer's Signature:**



**RECOMMENDATION**

**CSF266: RESPONSIBLE OFFICER RECOMMENDATION**

That Council RECEIVE the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 August 2016 totalling \$4,055,659.44.

**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 August 2016. Please refer to the Attachment to this report.

**Municipal Fund**

Trust	\$2,000.00
Credit Cards	\$18,748.90
Payroll	\$1,200,993.09
Cheques	\$51,502.14
Electronic Funds Transfer	\$2,782,415.31

**TOTAL** **\$4,055,659.44**

3. As at 15 August 2016, the total outstanding creditors, stands at \$2,101,977.40 and made up as follows:

Current	\$ 1,392,712.46
30 Days	\$578,418.88
60 Days	\$130,967.31
90 Days	-\$121.25

**TOTAL** **\$2,101,977.40**

4. Cancelled cheques:

<b>Cheque No.</b>	<b>Explanation</b>
31278	Incorrect creditor
30835	No longer required
31297	Incorrect creditor

**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 August 2016 has been incurred in accordance with the 2016/2017 budget parameters.

**FINANCIAL IMPLICATIONS**

9. Expenditure for the period to 15 August 2016 has been incurred in accordance with the 2016/2017 budget parameters.

**SUMMARY CONCLUSION**

10. That list of accounts have been authorised for payment under delegated authority.
11. It is requested that any questions on specific payments are submitted to the Executive Director Corporate Services by 4pm of the day prior to the scheduled meeting time. All answers to submitted questions will be provided at the Committee meeting. This allows a detailed response to be given to the Committee in a timely manner.

<b>File Number (Name of Ward)</b>	:	FM.FIR.2 - All Wards
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**CSF267: DELEGATED AUTHORITY REPORTS**

**Proponent** : City of Albany  
**Attachments** : Executed Document and Common Seal Report  
**Report Prepared by** : Personal Assistant to the ED Corporate Services (H Bell)  
**Responsible Officer** : Chief Executive Officer (A Sharpe)

**Responsible Officer's Signature:**



**RECOMMENDATION**

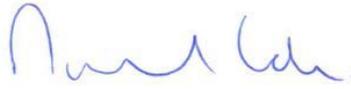
**CSF267: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council RECEIVE the Delegated Authority Reports 16 July 2016 to 15 Aug 2016.**

**CSF268: ADOPTION OF THE BUDGET REVIEW FOR THE PERIOD ENDING  
31 JULY 2016**

**Proponent** : City of Albany  
**Attachments** : Budget Review for the period ending 31 July 2016  
**Report Prepared by** : Business Analyst/Management Accountant (D Harrison)  
**Responsible Officer** : Executive Director Corporate Services (M Cole)

**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 Objectives:** 5.1. To establish and maintain sound business and governance structures.
  - c. **Strategy:** 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 under regulation 33A of the *Local Government (Financial Management) Regulations 1996*.
- An additional review has been conducted to amend carry forward projects from forecast to actual in accordance with the Department of Local Government and Communities' best practice financial reporting guidelines.
- This review is for the period ending 31 July 2016.

**RECOMMENDATION**

**CSF268: RESPONSIBLE OFFICER RECOMMENDATION  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT Council ADOPT the Budget Review for the period ending 31 July 2016.**

**BACKGROUND**

2. 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*.
3. The Department also recommends a review of the budget early in the financial year to amend carry forward projects from forecast to actual.

## DISCUSSION

4. Council adopted the 2016/2017 Budget on 26 July 2016. The total adopted budget of \$103.8 M comprised:
  - a. \$37.4 M capital works;
  - b. \$ 2.0 M debt reduction; and
  - c. \$64.4 M in operating expenditure.
5. This Budget Review identifies expenditure of \$828,465 for general works, variations and new projects.
6. The funding of \$828,465 inclusive of reduction in expenditures, adjustment of grant funding, additional revenue, reserve funding and the movement opening funds has been identified in this review to maintain a surplus budget.
7. This budget review shows the 2016/2017 budget is in a surplus position of \$47,600
8. A copy of the Budget Review for the period ending 31 July 2016 is attached.
9. Budget adjustments thereafter of an urgent nature will be brought to a Council Meeting as an item to be discussed when required and actioned outside of this review.

## GOVERNMENT & PUBLIC CONSULTATION

10. Department of Local Government and Communities guidelines were reviewed in the preparation of this report.
11. City of Albany Executives, managers and officers with budget responsibility were consulted in the preparation of the Budget Review.

## STATUTORY IMPLICATIONS

12. 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 authorised in advance by a resolution (absolute majority required) or;
  - c. is authorised in advance by the mayor in an emergency.
13. It should be noted that this is an additional review to the budget review conducted on the 26 July 2016, for the period 1 January to 31 March, which is a requirement covered by regulation 33A of the *Local Government (Financial Management) Regulations 1996*.

## POLICY IMPLICATIONS

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

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Reputation &amp; Organisation’s Operations.</b> Non approval of the budget review, may result in significant delays to achieving deliverables.</p> <p><b>Opportunity:</b> Provides Council with an additional opportunity to review the City’s current budget position.</p>	Unlikely	Moderate	Medium	<p>In the short term the existing Annual Budget would apply and proposed amendments would not apply.</p> <p>Adopt the Budget Review with amendments (as specified by Council).</p>

**FINANCIAL IMPLICATIONS**

BUDGET REVIEW FOR THE PERIOD ENDING 31 JULY 2016			
This Review Maintains Council's Budget in a Surplus Position			
			\$
<b>GENERAL WORKS/VARIATIONS. (Additional Funds Required)</b>			<b>(828,465)</b>
<b>FUNDED BY</b>			
- Reduction in Expenditure	674,159		
- Adjustment in Grant/Contributions Funding	(522,031)		
- Adjustment in Revenue	678,041		
- Restricted Cash Adjustments	(325,132)	<u>505,037</u>	
<b>Balance</b>			<u><b>(323,428)</b></u>
<b>Budgeted Opening Position</b>	1,725,566		
<b>NB - Adjustments From 2015/16 Financial Year (Pg's 8 - 12)</b>	<u>(18,052)</u>		
<b>Adjusted Budgeted Opening Position</b>	1,707,514		
<b>Actual Opening Position</b>	2,078,542	371,028	
<b>2016/17 Budgeted Closing Position</b>			<u><b>47,600</b></u>

**LEGAL IMPLICATIONS**

16. Nil.

**ENVIRONMENTAL CONSIDERATIONS**

17. Nil.

**ALTERNATE OPTIONS**

18. For the period ending 31 July 2016, Council may consider to:
- a. Adopt the Budget Review as recommended; or
  - b. Adopt the Budget Review with amendments (as specified by Council)

**SUMMARY CONCLUSION**

19. That the Responsible Officer's Recommendation to adopt the Budget Review for the period ending 31 July 2016 be supported.

<b>Consulted References</b>	:	Adopted Budget 2016/2017 <a href="#"><u>Local Government Act 1995</u></a>
<b>File Number (Name of Ward)</b>	:	FM.BUG.2
<b>Previous Reference</b>	:	Annual Budget – OCM 26/07/2016 Resolution CSF255

**CSF269: NEW COMMERCIAL LEASE – CLEANAWAY PTY LTD – HANRAHAN ROAD WASTE MINIMISATION FACILITY, MOUNT MELVILLE**

**Land Description** : Lot 167 on Diagram 248882, the whole of Certificate of Title Volume 1117 Folio 402 being Lot 167 Cuming Road, Mount Melville

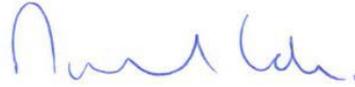
**Proponent** : Cleanaway Pty Ltd ABN 79 000 164 938

**Owner** : City of Albany

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

**Responsible Officer** : Executive Director Corporate Services (M Cole)

**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. **Strategy:** 5.1.2 Develop informed and transparent decision making processes that meet our legal obligations

**Maps and Diagrams:**



**In Brief:**

- Council is requested to consider a new lease for Cleanaway Pty Ltd for the purposes of Upgrading and Operating the Materials Recovery Facility (MRF) (as per the Waste and Recycling Collection Services Contract P14021).
- At OCM 24.02.2015 Item WS062, Council resolved to accept the Tender from Transpacific Cleanaway for Waste and Recycling Collection Services Contract P14021 (Waste Contract).
- The recommendation proposes that Council approve the new lease to comply with the Waste Contract P14021 requirement to formalise the current occupancy arrangement.

**RECOMMENDATION**

**CSF269: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council APPROVE a new LEASE to Cleanaway Pty Ltd over Lot 167 Cuming Road, Mount Melville, subject to:**

- a) Lease purpose being “Upgrading and Operating the Materials Recovery Facility”.**
- b) Lease special condition to document the lease being conditional on Cleanaway continuing to comply with all terms of the Waste Contract P14021.**
- c) Lease area approximately 3,422 m<sup>2</sup> as determined by survey.**
- d) Lease rent being \$10 plus GST per annum.**
- e) Lease term being 5 years, commencing 1 July 2015, with a two further terms of 2 years and a further 1 year term.**
- f) All costs associated with the ongoing operations of the lease property being payable by Cleanaway.**
- g) All costs associated with the preparation, execution and completion of the Deed of Lease being paid by the City of Albany.**
- h) Lease being consistent with Council Policy – Property Management (Leases and Licences).**

**BACKGROUND**

2. Transpacific Cleanaway Pty Ltd (formerly Brambles Australia Ltd) previously held the Contract C02061 for the City’s waste and recycling collection services, which was awarded in 2004. Contract C02061 expired on 30 May 2015.
3. As part of the Contract C02061, Council approved a new lease to Transpacific Cleanaway Pty Ltd to occupy the building and land known as the Materials Recovery Facility (MRF) to undertake waste minimisation and recycling services. This lease expired 5 May 2015.
4. In December 2014, the City released the Tender for Waste and Recycling Collection Services. At OCM 24.02.2015 Item WS062, Council resolved to accept the Tender from Transpacific Cleanaway Pty Ltd (Cleanaway) for Waste and Recycling Collection Services Contract P14021, subject to negotiation of final terms and conditions.
5. It is noted, in January 2016 Transpacific Cleanaway Pty Ltd advised of a change in its business entities, with Cleanaway Pty Ltd (Cleanaway) being the new entity name.
6. The final terms and conditions were negotiated and the Waste Contract to Cleanaway was signed on 31 July 2015.

7. In accordance with the Waste Contract, a new lease is to be developed to formalise the occupation of the MRF by Cleanaway.
8. The MRF is located at Lot 167 Cuming Road, Mount Melville which is situated within the Hanrahan Road Waste Minimisation Facility, and is City owned freehold land.
9. Prior to 2004 the City operated the MRF site as a part of the City's refuse and recycling services, constructing a large steel warehouse and shed in 1996 with office and toilet facilities, commonly referred to as the "Recycling Shed".
10. It came to the City's attention in March 2015 that the warehouse and shed constructed by the City did not have an approved building permit. Remedial structural works and toilet upgrade works were undertaken by the City to rectify this situation, with the Building Occupancy Permit (Permit number 160090) issued for the building on 8 August 2016.
11. As such a new lease to Cleanaway was put on hold until the building was certified to be compliant, and a Building Occupancy Permit was issued.
12. Cleanaway have continued to occupy the site on a holding over basis as a month to month tenant pending the building matters being resolved and a new lease being finalised.
13. In January 2016, Cleanaway lodged a development application for the construction of an additional shed to facilitate further storage and commercial recycling processing. This being the first stage of the proposed MRF upgrade.

## DISCUSSION

14. As part of the Tender process in February 2015, the City of Albany encouraged an upgrade to the MRF premises to provide improved facilities for commercial recycling services. Tenderers were requested to provide a list of upgrades to the MRF to enable it to improve the recycling rate and also allow for a greater capacity to accept commercial recycling.
15. Cleanaway's Tender response proposed a \$1.4m upgrade to the MRF. The upgrades include but are not limited to:
  - Building extensions for increased undercover areas for storage and commercial recyclable processing.
  - Additional bitumen areas for vehicle unloading.
  - New materials baler and refurbishment of existing baler.
  - Upgrade of conveyor network.
  - Supply and install an eddy current separator (ECS) to improve product recovery. The ECS uses an electromagnetic field to repel aluminium from the recycling stream.
  - Installation of new glass storage bunkers.
  - Upgrade to site amenities.
  - Fence line relocations, fencing and civil works.
16. It is envisaged the upgrades will increase the recovery of recyclables, in turn reducing residual waste to landfill by 5% and future proof the facility for years to come.

17. To accommodate the proposed MRF upgrades and changes to processes, Cleanaway have requested an increase to the previous lease area of 2950m<sup>2</sup> to 3422m<sup>2</sup>.
18. The proposed works by the Cleanaway will be subject to the normal planning and building approvals required by the City.
19. It is noted that ownership of all MRF improvements including all structures and equipment used in its operation are dealt with in the Waste Contract. In summary ownership transfers to the City at the end of the Waste Contract.
20. A lease special condition will be included stating that the lease is conditional on Cleanaway continuing to meet all terms of Waste Contract P14021.
21. The proposed lease term of five years commencing 1 July 2015 until 30 June 2020, with options for a further two fixed periods of two years and a further fixed period of one year. This ten year term is in line with the Waste Contract.
22. Council's Property Management (Leases and Licences) Policy provides that rent for commercial leases be determined initially by market valuation provided by a Licensed Valuer with rent reviews conducted every three years by market valuation and by CPI, All Groups (Perth) for intervening years.
23. It is recommended that Council relax this provision and approve a peppercorn rent of \$10 + GST per annum, based on any costs imposed for the lease have previously been considered and recovered through the negotiation of the Waste Contract.

#### GOVERNMENT & PUBLIC CONSULTATION

24. No Government consultation is required as the lease area is located within City of Albany owned freehold land.
25. Section 3.58 of the *Local Government Act 1995* outlines the requirements for the disposal of property, including leased/licensed land and buildings. The Act requires the following:
  - a. A local government must give local public notice of the proposed lease/licence inviting submissions from the public, for a period of two weeks.
  - b. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
  - c. A local government can then proceed with the lease/licence.
26. The proposed new lease will be advertised to comply with the requirements of Section 3.58 of the *Local Government Act 1995*.

#### STATUTORY IMPLICATIONS

27. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased/licensed land and buildings including advertising requirements.
28. The Western Australia Planning Commission (WAPC) has not been consulted with regard to the proposed new lease as per Section 136 of the *Planning and Development Act*, as no comment is required from WAPC when a lease term does not exceed twenty years on freehold land.

## POLICY IMPLICATIONS

29. Council adopted a revised Property Management (Leases and Licences) Policy in July 2015.
30. 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.
31. The Policy provides that any rent for commercial leases or licences will be determined by initial market valuation with rent reviews conducted every three years by market valuation and by CPI, All Groups (Perth) for intervening years.
32. It is recommended that Council relax current Policy provision for commercial leases requiring rent reviews by market valuations every three years and CPI for intervening years. This is on the basis that any costs imposed for the lease have been considered and recovered through the negotiation of the Waste Contract P14021.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation:</b> new lease not approved – amendment to Waste Contract P14021 will be required.	Unlikely	Major	Medium	Seek to negotiate terms to Council satisfaction.
<b>Community:</b> new lease not approved – Community waste and recycling services may be disrupted.  <b>Opportunity:</b> fulfil the Waste Contract conditions and formalise the current arrangements.	Unlikely	Major	Medium	Seek to negotiate terms to Council satisfaction.

## FINANCIAL IMPLICATIONS

34. All costs associated with the development, execution and completion of the lease agreement documentation will be met by the City of Albany. This has been agreed by the City when settling the Waste Contract terms.
35. The proposed new lease rental of \$10.00 plus GST per annum will be directed to Income – Other Property and Services COA account 1140530. This rental has been agreed by the City when settling the Waste Contract terms.

## LEGAL IMPLICATIONS

36. The commercial Deed of Lease with enforceable conditions will be prepared by City's lawyers, at City's expense.

**ENVIRONMENTAL CONSIDERATIONS**

37. Cleanaway Pty Ltd under the Environmental Management clause of the Waste Contract P14021 must comply with the Environmental Protection Act 1986 (WA) and the Environment Protection (Noise) Regulations 1997 (WA) at its own expense, and comply with all legal requirements concerning the environment.

**ALTERNATE OPTIONS**

37. Given the existing Waste Contract in place between the City of Albany and Cleanaway and the commitments made within the agreement for a new lease, it is not considered that there is an alternate option.
38. The proposed lease will fulfil the Waste Contract condition and formalise the current approved use by Cleanaway.

**SUMMARY CONCLUSION**

39. The Tender from Cleanaway Pty Ltd for Waste and Recycling Collection Services (Waste Contract P14021) was accepted by Council in February 2015.
40. A condition of the awarded Waste Contract was that the successful contractor will enter into a lease with the City of Albany for the use of the MRF site for the purposes of upgrading and operating the MRF.
41. Cleanaway continue to occupy the site on holding over provisions.
42. It is recommended the new lease to Cleanaway Pty Ltd is approved to fulfil the Waste Contract conditions and formalise the current arrangements.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• Council Policy – Property Management (Leases and Licences)</li> <li>• <i>Local Government Act 1995</i></li> <li>• <i>Local Government (Functions and General) Regulations 1996</i></li> </ul>
<b>File Number (Name of Ward)</b>	:	PRO327, A114984 (Frederickstown Ward)
<b>Previous Reference</b>	:	OCM 20.04.2004 Item 12.2 OCM 24.02.2015 WS062

**CSF270: COUNCIL POLICY – CODE OF CONDUCT REVIEW**

**Proponent / Owner** : City of Albany  
**Attachments** :  
• Reviewed Code of Conduct  
• Comparison Document  
**Report Prepared By** : Manager Governance & Risk (S Jamieson)  
**Responsible Officers:** : Executive Director Corporate Services (M Cole)

**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 Objectives:** 5.1. To establish and maintain sound business and governance structures.
  - c. **Strategy:** 5.1.2. To develop informed and transparent decision making processes that meet our legal obligations.

**In Brief:**

- Review and adopt the revised Council Policy.
- All changes have been highlighted on the attached comparison document.

**RECOMMENDATION**

**CSF270: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council RESCIND the current Policy and ADOPT the Council Policy: Code of Conduct (Council Members, Committee Members, Staff and Volunteers).**

**BACKGROUND**

2. The current policy was adopted by Council on 28 April 2015.
3. The attached policy was reviewed by the Executive Management Team and has been presented for review.
4. It is the role of Council to determine policy positions.

**DISCUSSION**

5. The content of the Policy has been amended to include:
  - a. changes to the *Local Government Act 1995* (the Act), in regards to new gift and travel reporting obligations; and
  - b. Electoral gift donations in relation to closely associated persons.

**Gift and Travel Contributions to elected members and employees**

6. There are three separate areas under the Act that deal with gifts, apart from those set by the local government (Council) itself:
  - a. All gifts and contributions to travel unless exempted under sections 5.82 and 5.83 of the Act;

- b. Gifts where the donor is undertaking or seeking to undertake an activity involving local government discretion or it is reasonable to believe the donor intends to do so; and
  - c. Elections gifts.
7. Elected member and employee obligations are now included and referenced in the revised policy at Attachment 1 - Electoral Gift (Donations) and Closely Associated Persons (Cause & Effect).

What happens when my contributor wants a decision from council?

8. Once an elected member has accepted any contributions that require disclosure in either the Electoral Gift Register or your Annual Return the contributor(s) become 'closely associated' with the elected member under section 5.62 of the Act.
9. That means that any financial interest they have in a matter before council is a financial interest.
10. Donors of gifts disclosed in the Gift Register under the Rules of Conduct will not be considered 'closely associated', unless the value of their gifts in a particular financial year exceeds the \$200 which requires disclosure in the council member's Annual Return.
11. Therefore, when accepting gifts of any kind, elected members need to consider the potential impact on their ability to take part in decision making processes, because ultimately, making decisions is an essential part of an elected member's role.

Result of failure to disclose a Financial Interest

12. Failure to disclose a financial interest is prescribed as a serious breach under the Act.
13. Serious breaches are dealt with by the State Administration Tribunal (SAT) upon referral from the Department of Local Government's CEO as designated under section 5.114 of the Act.
14. If it appears to a local government's Complaints Officer (CEO), that a complaint a person seeks to make under section 5.107 (minor breach) discloses a serious breach, the complaints officer is required to send the complaint to the Department of Local Government's CEO.
15. The complaint may be sent to the Local Government's Complaints Officer (CEO) or sent directly to the Department of Local Government CEO.

**Administrative amendments**

16. To ensure consistency of language the following terms were amended:
- a. the term "elected member" replaced with the term "Council Members"; and
  - b. the term "employee" replaced with "staff".

**GOVERNMENT & PUBLIC CONSULTATION**

17. Public: Not applicable.
18. Government: Amendments based on Department of Local Government, Governance Bulletins in regards to changes to gift reporting.

**STATUTORY IMPLICATIONS**

19. Detailed in the discussion section of the report.

**POLICY IMPLICATIONS**

20. Clause 2.7 of the Act outlines the role of Council, which specifically includes determining the local government's policies (Clause 2.7(2)(b)).
21. Under section 5.103 of the Act, every local government is to adopt a code of conduct to be observed by council members, committee members and employees.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Legal &amp; Compliance.</b> Revised policy position is not adopted.</p> <p>Policy position is inconsistent with legislation.</p> <p><b>Opportunity.</b> Facilitates updating elected members and employees on their individual obligations in regards to gift reporting.</p>	Possible	Moderate	Medium	<p>City officers address areas of concern and re-present for approval.</p> <p>Policy positions reviewed against applicable legislation and DLG guidance bulletins.</p>

**FINANCIAL IMPLICATIONS**

23. There are no financial implications related to this report.

**LEGAL IMPLICATIONS**

24. There are no direct legal implications related to this report.

**ENVIRONMENTAL CONSIDERATIONS**

25. There are no environmental considerations associated with this report.

**ALTERNATE OPTIONS**

26. Council may determine to:
- Not adopt the revised Policy; or
  - Adopt the policy with minor amendments.
27. If more than minor changes are proposed, it is recommended that the proposed policy is referred back to Committee for further review.

**CONCLUSION**

28. It is recommended that the Responsible Officer's Recommendation be adopted.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• Local Government Act 1995</li> <li>• Local Government (Administration) Regulations 1996</li> <li>• Local Government (Rules of Conduct) Regulations 2007</li> <li>• Equal Opportunity Act 1984</li> <li>• Public Interest Disclosure Act 2003</li> <li>• City Policy: Employee Code of Conduct</li> </ul>
<b>File Number (Name of Ward)</b>	:	CM.STD.7 (All)
<b>Previous Reference</b>	:	OCM 28/04/2015 Resolution CSF159.

- 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**
- 16. CLOSURE**