

**ED003: TEMPORARY/SHORT TERM EXTENDED TRADING HOURS
POLICY**

Land Description	: Municipality of Albany
Proponent	: City of Albany
Owner	: N/A
Attachments	: Council Policy – Extended Trading Hours Policy
Appendices	: Nil
Responsible Officer(s):	: Executive Director Community Services (C Woods)

Responsible Officer's Signature:

STRATEGIC IMPLICATIONS

This strategy directly relates to the following elements from the Community Strategic Plan – Albany 2023 and the Corporate Business Plan 2013-2017;

Theme 1; Smart Prosperous and Growing; *We will partner business and education providers to diversify our economy and establish a culture of learning to support and grow local employment.*

Objective 1.2: To strengthen our region's economic base.

Strategic initiative 1.2.1: City Centre revitalisation resulting in increased activity.

Objective 1.3: To develop and promote Albany as a unique and sought after visitor destination.
Strategic initiative 1.3.2: Tourism destination and increase in visitor numbers.

IN BRIEF:

- New laws that commenced on 26 August 2012 have given general retail shops in the Perth metropolitan region the right to trade on Sundays between 11am and 5pm and on most public holidays between 11am to 5pm with the exception of Good Friday, Christmas Day and Anzac Day when they remain closed. The new laws replace the need for the special trading precincts of Armadale, Joondalup, Midland and Perth and for the remainder of Perth metropolitan region to apply for temporary extensions to trading hours.
- A review and updating of the City of Albany extended trading policy is necessary as the City's previous policy mirrored the temporary extended trading provisions adopted by the Perth metropolitan region which are no longer required.

RECOMMENDATION

ED003: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT the Policy for Temporary/Short Term Extended Trading Hours be APPROVED (as amended):

- a. 8am – 9pm Monday, Tuesday, Wednesday, Thursday and Friday.
- b. 8am – 5pm Saturday
- c. 11am – 5pm Sunday
- d. 11am – 5pm Public holidays
- e. 12pm – 9pm ANZAC Day
- f. CLOSED Christmas Day and Good Friday.

ED003: AMENDED RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR CALLEJA

THAT the Policy for Temporary/Short Term Extended Trading Hours be APPROVED (as amended):

- a. 8am – 9pm Monday, Tuesday, Wednesday, Thursday and Friday.
- b. 8am – 5pm Saturday
- c. 11am – 5pm Sunday
- d. 11am – 5pm Public holidays
- e. 12pm – 9pm ANZAC Day
- f. CLOSED Christmas Day and Good Friday.

CARRIED 4-0

ED003: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT the POLICY for extended trading hours be APPROVED.

BACKGROUND

2. The City of Albany's previous Extended Trading Hours Policy stated "*during peak times, City of Albany will adhere to the extended trading hours applied in the metropolitan area*". Since August 2012 new laws no longer require extensions to trading in the Perth metropolitan area so the City of Albany policy requires updating.
3. The WA State Government Department of Commerce considers applications made by non metropolitan local government authorities when seeking adjustments to retail trading hours.
4. As a non metropolitan local government authority the City of Albany can define its own schedule of retail trading hours and can apply to the Department for approval.

5. New permanent/long term trading hours for general retail shops in the Perth metropolitan region are;
 - a. 8am – 9pm Monday, Tuesday, Wednesday, Thursday and Friday.
 - b. 8am – 5pm Saturday
 - c. 11am – 5pm Sunday
 - d. 11am – 5pm Public holidays
 - e. CLOSED Christmas Day, Good Friday and ANZAC Day.
6. There are two types of adjustment applications that can be applied for by non metropolitan local government authorities;
 - a. “Temporary/Short Term Adjustments” and
 - b. “Permanent/Long Term Adjustments”.

This policy is only concerned with Temporary/Short Term Adjustments.

Permanent/long term adjustments require substantial consultation and support from local trader organisations, tourism interests, members of State Parliament and the community. This policy does not apply to Permanent/Long Term Adjustments.

7. 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.
8. In the absence of this, the City is required to apply for temporary/short term adjustments if extended retail trading is required for identified periods such as popular holidays and when Albany hosts large tourist cruise ship visits on Sundays.

DISCUSSION

9. The previous Albany Council Policy for Extended Trading Hours mirrored the extended trading hours applied in the Perth Metropolitan area. These no longer exist so the Council Policy needs to be updated with peak and special circumstance periods defined more concisely.
10. The proposed changes to the Council policy include:
 - a. Defining Peak Times to be; Christmas and New Year Period (1 December to 1 January inclusive), Easter Holidays (Good Friday to Easter Monday inclusive), public holiday long weekends, and public holidays excluding Christmas day and Good Friday.
 - b. The definition of Special Circumstances periods remain the same being; 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.
 - c. The Policy statement has been changed to; “During peak times the City of Albany will adhere to the standard Retail Trading Hours applied in the Metropolitan Area being;
 - i. 8am – 9pm Monday, Tuesday, Wednesday, Thursday and Friday.
 - ii. 8am – 5pm Saturday
 - iii. 11am – 5pm Sunday
 - iv. 11am – 5pm Public holidays
 - v. CLOSED Christmas Day, Good Friday and ANZAC Day.”

- d. By clearly defining the Peak periods in the policy Council will **no longer** need to consider approval for multiple extended trading hour applications for these periods as separate Council agenda items throughout the year. However City officers will still need to apply to the Department of Commerce for approval for these dates throughout the year.
 - e. For Special Circumstance periods authority for Council approval for City officers to apply to the Department of Commerce will rest with the Mayor or Deputy Mayor in the Mayor's absence.
11. Clearly defining the Peak and Special Circumstance periods provides consistency to local retail traders, local community, visitors, and enables more efficient planning and approval processes.
 12. The policy would be reviewed by the Chief Executive Officer on an annual basis and if the current Perth Metropolitan long term retail trading hours are altered.
 13. Once 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

14. A review and amendment to the current Council policy is required due to changes in retail laws within the Perth Metropolitan region. City officers have consulted with the WA State Government's Department of Commerce.
15. The Albany Chamber of Commerce and Industry Inc is a representative of the affected segment of the population and supports the application of the standard Retail Trading Hours applied in the Metropolitan Area to the Peak periods identified for Albany.
16. If the motion is approved by a clear majority of 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 peak and special circumstance periods as required.

STATUTORY IMPLICATIONS

17. 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

18. If the motion is approved by a clear majority of Council, the current Council policy for Extended Trading Hours will be replaced with the new policy.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Without the changes the policy will be invalid and may restrict the City's ability to apply for temporary adjustments in a timely manner. This may result in local businesses missing additional trading opportunities over peak visitor periods.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>In the absence of a valid policy Council will need to consider individual extended trading hour applications.</i>

FINANCIAL IMPLICATIONS

20. 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 Christmas, Easter, long weekends, public holiday periods and from cruise ships visits.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

22. Nil

ALTERNATE OPTIONS

23. Council can decline or modify the policy.

SUMMARY CONCLUSION

24. There is a precedent for a temporary extension of this nature on the peak holiday periods of Christmas, Easter, long weekends, public holidays and cruise ship visits (when they have arrived in Albany on a Sunday). Adoption of the new Policy clearly defines these Peak periods and nominates the days and opening times prescribed.
25. The adoption of the new policy will simplify the approval process and remove the need to apply to Council for extended trading on already identified peak dates.

Consulted References	:	City of Albany Strategic Plan 2011-2021
File Number (Name of Ward)	:	CM.STD.7 (All Wards)
Previous Reference	:	OCM 17/03/2009 - Item 12.8.2