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# AGENDA

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

**9 December 2014**

5.30pm

City of Albany Council Chambers

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

**VISION**

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

**VALUES**

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

**Focused: on community outcomes**

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

**United: by working and learning together**

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

**Accountable: for our actions**

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

**Proud: of our people and our community**

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

**TERMS OF REFERENCE**

**(1) Function:**

The Corporate Services and Finance Committee will monitor and comment on the financial health and strategies of Council and will be responsible for the delivery of the following Civic Leadership Objectives contained in the City of Albany Strategic Plan:

- (a) To establish and maintain sound governance structures;
- (b) To provide strong, accountable leadership supported by a skilled and professional workforce;
- (c) To engage effectively with our community.

**(2) It will achieve this by:**

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

**(3) Chairperson:** Deputy Mayor, Councillor Stocks

**(4) Membership:** All elected members

**(5) Meeting Schedule:** As required

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

**(7) Executive Officer:** Deputy Chief Executive Officer

**(8) Delegated Authority:** None

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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** Mayor D Wellington (Member)

**Councillors:**

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

**Staff:**

Chief Executive Officer	G Foster
Deputy CEO	G Adams
Manager Finance	D Olde

Minutes J Stanton

**Apologies:**

Member N Williams

**4. DISCLOSURES OF INTEREST**

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

**5. REPORTS OF MEMBERS**

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

**7. PUBLIC QUESTION TIME**

**8. APPLICATIONS FOR LEAVE OF ABSENCE**

**9. PETITIONS AND DEPUTATIONS**

**10. CONFIRMATION OF MINUTES**

**DRAFT MOTION**

**THAT the minutes of the Corporate Services and Finance Meeting held on 10 November 2014, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**11. PRESENTATIONS**

**12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS**

**CSF132: FINANCIAL ACTIVITY STATEMENT – NOVEMBER 2014**

**Proponent** : City of Albany  
**Attachments** : Financial Activity Statement  
**Report Prepared by** : Financial Accountant (S Beech)  
**Responsible Officer** : Deputy Chief Executive Officer (G Adams)

**Responsible Officer's Signature:**



**RECOMMENDATION**

**CSF132: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council RECEIVE the Financial Activity Statement for the period ending 31 October and 30 November 2014.**

**BACKGROUND**

1. The Statement of Financial Activity for the period ending 31 October and 30 November 2014 has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Activity, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

**DISCUSSION**

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

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

## STATUTORY IMPLICATIONS

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

## POLICY IMPLICATIONS

8. The City's 2014/15 Annual Budget provides a set of parameters that guides the City's financial practices.
9. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

## FINANCIAL IMPLICATIONS

10. Expenditure for the period ending 31 October and 30 November 2014 has been incurred in accordance with the 2014/15 proposed budget parameters. Details of any budget variation in excess of \$50,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

<b>File Number (Name of Ward)</b>	:	FM.FIR.2 - All Wards
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**CSF133: LIST OF ACCOUNTS FOR PAYMENT – NOVEMBER 2014**

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

**Responsible Officer's Signature:**



**RECOMMENDATION**

**CSF133: RESPONSIBLE OFFICER RECOMMENDATION**

**That Council received the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 November 2014 totalling \$7,122,068.52.**

**BACKGROUND**

- 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**

- The table below summarises the payments drawn from the municipal fund for the period ending 15 November 2014. Further details of the Members Report/Information Bulletin.

**Municipal Fund**

Trust	\$0.00
Credit Cards	\$18,992.27
Payroll	\$1,790,268.54
Cheques	\$23,821.32
Electronic Funds Transfer	\$5,288,986.39

**TOTAL**

**\$7,122,068.52**

- As at 15 November 2014, the total outstanding creditors, stands at \$295,758.47 and made up as follows:-

Current	\$215,391.47
30 Days	\$80,453.90
60 Days	\$0.00
90 Days	-\$86.90

**TOTAL** **\$295,758.47**

4. Cancelled cheques: - Nil.

**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 November 2014 has been incurred in accordance with the 2014/2015 budget parameters.

**FINANCIAL IMPLICATIONS**

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

**SUMMARY CONCLUSION**

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

<b>File Number (Name of Ward)</b>	:	FM.FIR.2 - All Wards
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**CSF134: DELEGATED AUTHORITY REPORTS – NOVEMBER 2014**

**Proponent** : City of Albany  
**Attachments** : Executed Document and Common Seal Report  
**Report Prepared by** : Personal Assistant to Deputy CEO (J Stanton)  
**Responsible Officer** : Chief Executive Officer (G Foster)

**Responsible Officer's Signature:**



**RECOMMENDATION**

**CSF134: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council RECEIVE the Delegated Authority Reports up until 15 November 2014.**

**CSF135: FUTURE MANAGEMENT OF LOT 6981 ALBANY HIGHWAY, DROME**

**Land Description** : Lot 6981 Albany Highway, Drome  
**Proponent** : Mr Ray Gerovich of A Gerovich & Sons Pty Ltd  
**Owner** : State of WA,  
**Attachments** : Aerial Photo of Subject Land  
Photographs of the WW2 Bunkers  
**Report Prepared by** : Senior Land Officer (N Crook)  
**Responsible Officer** : Deputy Chief Executive Officer (G Adams)

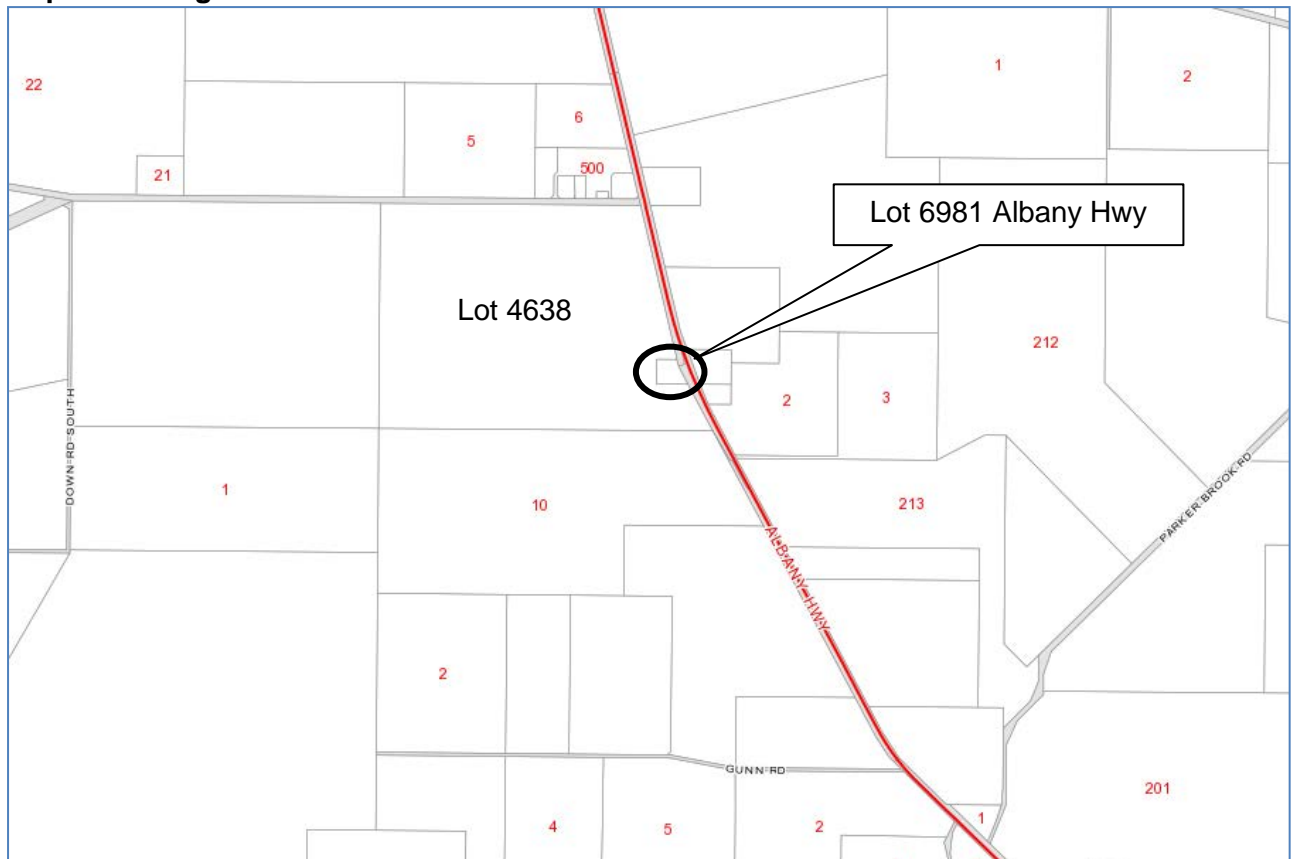
**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
  - a. **Key Theme:** 5 Civic Leadership
  - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
  - c. **Strategic Initiative:** 5.1.2 Develop informed and transparent decision making processes that meet our legal obligations.

**Maps and Diagrams:**



**In Brief:**

- In August 2010, Council resolved to request the management of Lot 6981 Albany Highway, which contains WW2 bunkers that are a significant heritage asset and part of Albany's war time story.
- Since Council's previous resolution, there have been many discussions with the adjoining landowner and the Department of Lands about the future management of this land. The adjoining landowner has held an interest in Lot 6981 in the form of a lease managed by the Department of Lands and currently has Tenant at Will status.
- Council is requested to reconsider their previous resolution, in view of the strong objections raised by the adjoining landowner and with a more detailed consideration of the works required in the management of the land and its heritage asset.

**RECOMMENDATION**

**CSF135: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council:**

- 1) ADVISES the Department of Lands that it no longer wishes to pursue management of Lot 6981 Albany Highway, Drome and would support the disposal of the land (either via leasehold or sale of land) to the adjoining landowner on the following basis:**
  - a) The landowner be advised that the City will be pursuing the heritage listing of the WW2 bunkers contained on this land, via the Local Planning Scheme No 1, the Municipal Heritage Inventory and the State Register of Heritage Places;**
  - b) The landowner be advised that, following the heritage listing of this property, the City will offer assistance with any grant funding applications to assist with the conservation of this heritage asset;**
  - c) The landowner be advised that the City may wish to continue discussions with regard to organised, pre-arranged public visits to the site, as interest arises and at special occasions; and**
  - d) The Department of Lands considers placing notification on title, in the event of the sale of the property, or appropriate lease provisions for the protection of the WW2 bunkers on Lot 6981 Albany Highway, Drome.**
- 2) RESOLVES pursuant to Part 7.1 of Local Planning Scheme No 1 to include the WW2 bunkers contained on Lot 6981 Albany Highway, Drome on the Heritage List, subject to:**
  - a) The description of the place being prepared in conjunction with the City's Regional Heritage Advisor;**
  - b) Compliance with the notification and consultation procedures defined by Clauses 7.1.3 and 7.1.4;**
  - c) Should no objections be received during the consultation process, the place shall be included on the Heritage List without a further item to Council and without modification; and**
  - d) The place shall be considered for inclusion in the Municipal Heritage Inventory as part of this review process.**
- 3) NOTIFIES the State Heritage Office of this resolution and request that the WW2 bunkers be listed for possible inclusion onto the State Register of Heritage Places.**

## BACKGROUND

2. A lease to A Gerovich & Sons was originally registered over Lot 6981 Albany Highway, Drome on 25 August 2006. This lease is managed by the Department of Lands and the City advised the Department on 1 March 2006 that it supported the granting of this lease for a five year period. This support was granted prior to the City being aware of the existence of the WW2 bunkers on the land.
3. This land parcel is surrounded on three sides by Lot 4638 Albany Highway, which is owned by A Gerovich & Sons. Lot 6981 appears to be used as the means of access between two buildings on Lot 4638, rather than entering the highway to move around the property.
4. An item was presented to Council at its meeting held on 17 August 2010 regarding the management of the subject land. This report noted the following information:
  - a. The City was not previously aware of the WW2 bunkers;
  - b. The bunkers are an Air-force military bunker believed to have provided support systems in the event of an attack on Albany Airport;
  - c. These bunkers are one of three within the City (including Albany Airport and Federal Street (owned by Western Power));
  - d. Lot 6981 is Unallocated Crown Land, zoned for public purposes under the City's Town Planning Scheme;
  - e. Lot 6981 is bound on three sides by Lot 4638 owned by the Gerovich family and this family had applied to amalgamate this lot into their freehold title.

Note: While this Council item makes reference to Lot 6981 as a leasehold property, there are no details of Mr Gerovich's interest in this property.

5. Council resolved, at its meeting held on 17 August 2010, as follows:

*That Council informs the Department for Regional Development and Lands that the City of Albany is prepared to accept a management order for the land and request that it be granted to the City as soon as possible.*

6. Following this Council resolution, a request was sent to the Department of Lands seeking the management order for the subject land. The Department then consulted with the lessee, Mr Gerovich. Mr Gerovich raised significant objection with the Department and directly with the City to his lease not being renewed and maintained that he would like to continue leasing this property.
7. Detailed correspondence occurred between the Department of Lands, the City and Mr Gerovich over the period from August 2011 until November 2012. In November 2012, the Department advised as follows:
  - a. A short term grazing lease was to be issued to Mr Gerovich, though the lease would contain an early break clause;
  - b. The intent of this lease was to provide additional time for the City to consider the future management of the land and to prepare a management plan for the property;
  - c. While this new lease was being prepared, Mr Gerovich was granted Tenant at Will status until 30 June 2013.
8. In response to the Department's letter, the City considered the resourcing available to prepare the required management plan and it was decided that this was not a high priority, in view of the Anzac projects underway. As such, the City wrote to the Department and advised that they supported the short term lease renewal, with the option for possible termination.

9. In April 2014, the Department again contacted the City on this matter and advised that Mr Gerovich had decided against renewing his lease and did the City wish to take on the management of the land. Again, the Department reiterated that this would require the preparation of a management plan for the land. While the City was considering this option, the Department verbally advised that Mr Gerovich had contacted them again and advised that he did wish to renew the lease or possibly look at the purchase of the land from the Crown.
10. Since these discussions occurred, the City has undertaken a structural assessment of the WW2 bunkers and visited the site with Mr Gerovich and the Department of Lands in attendance.

## DISCUSSION

### Structural Assessment

11. Structerre was appointed to undertake a basic structural assessment of the bunkers. This assessment occurred to ascertain the current condition of the bunker and any remediation works that may be required, in the event that the City was to assume control of this land. The assessment reported as follows:
  - a. Overall, the structure is in good condition for its age;
  - b. Some spalling (i.e. surface failure in which spall is shed) to the concrete is noted in a few areas which has resulted in the steel reinforcement starting to corrode. It is recommended that these areas be addressed with concrete repairing techniques;
  - c. The central control joint is in need of some repair, as it is currently allowing water inside of the structure and damage to the surrounding concrete is evident; and
  - d. No investigation was undertaken to the condition of the existing ladders located in the view ports / air vents.

### Heritage Implications

12. The WW2 bunkers are not currently included in the Municipal Heritage Inventory, though they are included on the review list for future inclusion. The review of the City's Municipal Heritage Inventory is currently underway.
13. The WW2 bunkers are not currently included in the Heritage List, as defined by Local Planning Scheme No 1. This list is currently the Schedule of Places of Heritage Value, as was contained in Appendix 8 of the previous Town Planning Scheme No 1A.
14. The heritage values of the WW2 bunkers have been discussed with the City's Heritage Advisor, Helen Munt. Ms Munt has strongly supported the retention of these bunkers and is willing to assist in the preparation of a management plan, which would then form the basis of an application for funding to prepare a Conservation and Interpretation Plan.
15. The WW2 bunkers are not currently included on the State Register of Heritage Places, though they may be worthy for inclusion on this register. Initially, the property must be included on the City's Municipal Heritage Inventory and the State Heritage Office would then undertake its own assessment, which could take 12-24 months.
16. In view of the above, the WW2 bunkers do not have any current legislative protection as they are not contained on any of the heritage lists that would protect the place. However, it would be a relatively simple process to include this place on the Heritage List contained in the City's Local Planning Scheme No 1. Ms Munt has indicated that she could assist with the heritage assessment of the place that would be required as part of this process. The City would also be required to follow the notification and public consultation processes as defined under the Scheme.

Land Management Matters

17. While the City has previously expressed an interest in assuming the management of Lot 6981 in order to protect the WW2 bunkers, this was done without consideration of any works that may be required as part of this action. As a minimum, it would be expected that the following works would be required:
- a. Upgrading of fencing;
  - b. Upgrading of the crossover access to the land (to standards specified by Main Roads WA);
  - c. Weed control works and clearing of debris material / fuel loads;
  - d. Installation of firebreaks along some boundaries;
  - e. Remediation works on the bunkers themselves.

The above works are likely to be required at the outset of taking over the land's management and this does not include any upgrading works that the City may like to undertake to make it suitable for public access i.e. access roads, parking bays, signage, picnic tables, shelter, rubbish bins etc.

18. While Council may decide to pursue the management of this land, it would require a financial commitment to upgrade the site in the first instance. Further budgetary commitments would then be required for future maintenance and potentially upgrading the site to permit general public access.
19. Alternatively, Council could support the continued management of the site by Mr Gerovich, either via leasehold or through the purchase of the land from the State. If the bunkers were included on the Heritage List in the Local Planning Scheme No 1, this would afford some protection to the heritage asset. In addition, once the site is appropriately listed, the City may be able to assist Mr Gerovich to obtain grant funding for upgrading and conservation works.
20. If the City is not going to take over the management of this land, it may be beneficial to broker an informal agreement with Mr Gerovich that organised, pre-arranged visits may be permitted to the site, as interest in the bunkers arise. Mr Gerovich verbally indicated that while he would not support unrestricted public access, pre-arranged visits may be able to be accommodated.
21. The Department of Lands has recently advised (November 2014) that it is investigating the possible sale of Lot 6981 to Mr Gerovich, both as an individual title or potentially to be amalgamated with his surrounding property Lot 4638, though this is subject to comments being received from the City (to be provided by this item's resolution).

**GOVERNMENT & PUBLIC CONSULTATION**

22. The City has discussed this matter numerous times with the Department of Lands over the last few years. The Department of Lands has clearly indicated that it would not take any action on the land's future management without prior consultation with the City.
23. While no general public consultation has occurred, the City has met with and corresponded with Mr Gerovich, as both the lessee of the subject land and the owner of the surrounding property.

**STATUTORY IMPLICATIONS**

24. Clause 41 of the *Land Administration Act 1997* allows the Minister for Lands to reserve Crown land for one or more purposes in the public interest.



25. Clause 46 of the *Land Administration Act 1997* allows the Minister for Lands to place the care, control and management of reserves in any person or agency.
26. Clause 79 of the *Land Administration Act 1997* allows the Minister for Lands to grant leases of Crown Land for any purpose. This part also allows options to purchase the fee simple of the Crown Land leased, though the sale of Crown Land is also permitted in other parts of the Act.
27. Part 7.1 of the Local Planning Scheme No 1 allows the establishment and maintenance of a Heritage List to identify those places with cultural heritage significance and worthy of conservation under the provisions of the Scheme.
28. Clauses 7.1.3 and 7.1.4 defines the notification and consultation processes that must be observed as part of including a place on the Heritage List.
29. Clause 7.1.7 of the Local Planning Scheme No 1 states that all places contained in Appendix VIII – Schedule of Places of Heritage Value within Town Planning Scheme No 1A are deemed to be included in the new Heritage List within following the public consultation processes defined in Clause 7.1.3.

### POLICY IMPLICATIONS

30. The City's Local Planning Scheme 1 Policy Manual contains Council Policy – Heritage Protection. The provisions of this policy refer to identified heritage places as defined by the Municipal Heritage Inventory, Local Planning Scheme No 1 and/or the State Register of Heritage Places. This policy defines how proposals affecting heritage places shall be considered.
31. If Council supports the inclusion of the WW2 bunkers in the Heritage List of the Scheme, this Policy will apply to any future development of the site.

### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<u>Financial</u> Council assumes the control of the land without a budgetary expense for upgrading	Unlikely	Moderate	Medium	Council makes the decision to assume management or not, based on an understanding of the upgrading works required
<u>Reputation</u> Council supports the disposal of the land to the subject landowner without protecting the heritage asset	Unlikely	Major	Medium	In the event that Council supports the disposal of the land, Council resolves to initiate the heritage listing of the WW2 bunkers
<u>Property</u> Heritage Asset is left to degrade	Possible	Moderate	Medium	Department of Lands to place notification on title or lease provisions for maintenance and protection of the heritage asset

## FINANCIAL IMPLICATIONS

33. If Council was to take on the management of Lot 6981 as a Crown Land Reserve and the management of a heritage asset, this would require budgetary expenditure which is not currently allocated. It is uncertain how much money would need to be spent bringing this site up to current standards, though it is understood some remediation works are required on the bunkers and the land needs improvements. If the public were to be permitted access to land, the site would require more work with greater financial impacts.

## LEGAL IMPLICATIONS

34. There are no legal implications associated with this matter. All actions will comply with relevant legislation.

## ENVIRONMENTAL CONSIDERATIONS

35. Majority of Lot 6981 is well vegetated. Some clearing may be required to establish firebreaks, though this may not be necessary if Lot 6981 is amalgamated with Lot 4638.

## ALTERNATE OPTIONS

36. Council may:
- a. Decide to pursue the management of Lot 6981 and assume responsibility for the management of this land and the WW2 bunkers, including any costs involved with upgrading and maintenance works; or
  - b. Support the disposal of the land to the adjoining landowner, either via leasehold or through the purchase of the land from the State, though in this circumstance it is strongly recommended that the heritage listing of the property be enacted.

## SUMMARY CONCLUSION

37. Council previously expressed an interest in taking over the management of Lot 6981 Albany Highway, in order to protect the WW2 bunkers situated on this land. However, the interest of the adjoining landowner was not reported to Council and this landowner has raised significant objections to this action.
38. While it is considered important to conserve the heritage asset on the land, the City does not necessarily need to assume control of the land in order to achieve this outcome. If the bunkers were heritage listed, some legislative protection would be afforded to this site.
39. While Council retains the option to pursue the management of this land, it would need to consider the financial implications of doing so, both in terms of immediate upgrading works to make the site safe and the longer term maintenance works of both the land and the WW2 bunkers.
40. However, it is recommended that Mr Gerovich be allowed to continue to manage this land, either via leasehold or through the purchase of the land from the State and the City protects the heritage asset through relevant legislation.

<b>Consulted References</b>	:	Land Administration Act 1997 Local Planning Scheme No 1
<b>File Number (Name of Ward)</b>	:	A185426
<b>Previous Reference</b>	:	OCM 17 August 2010 Item 2.6

**CSF136: NEW LEASE AND LICENCE – DARREN AND LINDA RUSSELL – PORTION RESERVE 42964 – EMU POINT MARINA**

**Land Description** : Portion Lot 501 on Deposited Plan 64940 and the whole of the land contained in Certificate of Title Volume LR3159 Folio 265 portion Crown Reserve 42964, Emu Point Marina

**Proponent** : Darren Russell and Linda Russell

**Owner** : City of Albany

**Business Entity Name** : Emu Point Slipway Services & Emu Point Shipwright / Boat Builders

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

**Responsible Officer** : Deputy CEO (G Adams)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
  - a. **Key Theme:** Civic Leadership
  - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
  - c. **Strategic Initiative:** 5.1.2 Develop informed and transparent decision making processes that meet our legal obligations.

**Maps and Diagrams:**



**In Brief:**

- Council is requested to consider a new lease and licence to Darrell and Linda Russell (trading as Emu Point Slipway Services & Emu Point Shipwright / Boat Builders) over portion of Reserve 42964, Emu Point for a term of 10 years plus an option for a further 10 years to continue to provide slipway and marine maintenance services.
- Darrell and Linda Russell have occupied land at Emu Point Marina since 2002. Both lease areas A and B expired on 31 October 2014 with an option for a further 10 year term available.
- The Lessee has requested a new 10 plus 10 year lease rather than exercising the option for a further 10 year term. The Lessee seeks to secure tenure over the combined lease areas as proposing to upgrade facilities and to protect existing improvement of workshop, hardstand and boat lifter infrastructure.
- The City has sought a new non-exclusive licence to formalise existing access between the workshop and the boat lifter facility over public use area.
- The recommendation proposes that Council approve the request.

**RECOMMENDATION**

**CSF136: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council APPROVE a new lease and non-exclusive licence for Darren and Linda Russell (trading as Emu Point Slipway Services & Emu Point Shipwright / Boatbuilders) over portion of Reserve 42964, Emu Point Marina subject to:**

- a) Lease and licence term being 10 years with an option for a further 10 year term.**
- b) Lease purpose being slipway operation; marine maintenance, hardstand and storage and associated activities.**
- c) Licence purpose being non exclusive access to slipway operation.**
- d) Combined lease area being approximately 6019m<sup>2</sup>.**
- e) Licence area being approximately 118m<sup>2</sup> subject to survey.**
- f) Lease rent as determined by a current market valuation being \$11,667 plus GST provided by a Licensed Valuer.**
- g) Lease provides for reimbursement to the City of Albany for the annual Department of Transport Emu Point Seabed Lease fee.**
- h) Lease and licence commencement date being 1 November 2014.**
- i) Pursuant to Section 18 of the *Lands Administration Act 1997*, the Minister for Lands consent is obtained.**
- j) Pursuant to Section 3.58 of the *Local Government Act 1995* advertising requirements.**
- k) All costs associated with the preparation, execution and completion of Deed of Lease and Licence being payable by the Lessee.**
- l) All costs associated with the ongoing operations of the lease and licence premises being payable by the Lessee.**
- m) Lease being consistent with Council Policy – Property Management – Leases and Licences.**

## **BACKGROUND**

2. Crown Reserve 42964 is under Management Order H755179 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of “Marine and Associated Purposes” for a term not exceeding 50 years subject to the consent of the Minister for Lands.
3. Crown Reserve 42964, an area of approximately 3.5ha located on Swarbrick Street, Emu Point is commonly referred to as the Emu Point Marina.
4. In June 2002 Council approved a new sub lease between Emu Point Sporting Association Inc. and Darren Russell over portion Reserve 42964 for the purpose of slipway operations (Lease area A). It is noted at this time the Emu Point Sporting Association Inc. held the Head Lease over the slipway.
5. Lease area A comprises a workshop for the maintenance and repair of marine craft and slipway operations. Current rental is \$6,600 plus GST per annum.
6. In May 2003, due to age and safety concerns of the slipway, Council agreed to undertake repairs and install a boat lifter runway to provide for a marine boat lifter operation instead of rebuilding the slipway, in recognition of the community service provided. The Lessee agreed to purchase and operate boat lifter equipment.
7. A condition of the works was that the Emu Point Progress Association surrenders the Head Lease allowing the City control over the operation and maintenance of the slipway and satisfactory negotiations with the Lessee in regard to future management of the slipway.
8. In July 2003 Council endorsed the surrender of the Head Lease to Emu Point Sporting Club Inc. and sub lease to the Russell’s. A new lease was granted to Darren and Linda Russell over the existing areas of workshop and slipway commencing 1 August 2002 for a term of 12 years and 3 months, terminating 31 October 2014, with a further 10 year term option.
9. To satisfy Department of Transport requirements the City entered into the Emu Point Seabed Lease agreement with The Minister for Transport in June 2004, over an area of approximately 427m<sup>2</sup> for the purpose of maintaining the 40 tonne boat lifter runway. The annual fee is currently \$2,000 plus GST and currently paid by the City.
10. In response to a request from Darren and Linda Russell to lease an additional portion of land adjacent the rear of their existing lease premises, Council at its meeting on 19 October 2004 approved a new lease over 4517m<sup>2</sup> portion of land for a period of 9 years and 10 months commencing 1 January 2005, with a further 10 year term option.
11. Lease purpose being for the storage of marine craft and hardstand area associated with marine maintenance activities. (Lease area B). The term ensured the new lease expired concurrently with the existing lease Area A.
12. Current lease rent for Lease area B is \$5,067 plus GST per annum.
13. In May 2010, the Department of Lands excised an area of approximately 175m<sup>2</sup> from adjoining ‘A’ class Reserve 6862 and incorporated within Reserve 42964, allowing the Lessee access from the workshop (Lease area A) to the hardstand (Lease area B), without having to traverse the public car park.
14. Both current lease agreements expired 31 October 2014 and continue under holding-over.

15. The City currently has nine leases on the reserve consisting of five commercial leases and two community leases. All leases are associated with marine activities.

## DISCUSSION

16. In response to the City's correspondence to the Lessee regarding their intentions for the further 10 year term option, the Lessee requested a new 10 plus 10 year term, allowing for twenty year term to secure longer tenure rather than exercising the option.
17. The Lessee is proposing to undertake improvements requiring a sizeable financial investment to upgrade facilities. The upgrade will insure compliance with current health and safety regulations and in turn better meet the needs of the local small commercial and pleasure boat owners. The longer term also provides the Lessee further confidence in the business investment proposal.
18. Proposed improvements include construction of a large shed located on existing Lease area B which will allow boat owners the option of working on their vessel undercover. This will ensure compliance with current environmental health and safety regulations for the application of paints and the sanding of boats.
19. The Lessee offers the boating community a wide range of services including boats built in wood, steel, aluminium and fibreglass; boat repairs, and boat surveying for insurance purposes.
20. Currently access from the workshop to the slipway traverses a public use area. To formalise this arrangement, a new licence agreement will be developed to protect all users of the area. A special condition of the licence will allow for the City to have the ability to review and impose conditions of use throughout the term for the purposes of providing public safety.
21. In addition to the payment of lease rent, it is proposed the Lessee will reimburse to the City the annual Department of Transport Emu Point Seabed Lease fee for the City's infrastructure (runway) to facilitate boat lifter operations, currently \$2,000 plus GST.
22. It is noted that the City has been in discussions with the Department of Transport regarding the option of transferring the management of the Emu Point Marina and Boat Pens to the Department. A proposal has been sent to the Department, however a formal response has not yet been received.

## GOVERNMENT & PUBLIC CONSULTATION

23. The City sought comment from the Department of Transport who advised they have no objections to the proposed new lease and licence.
24. The Department of Lands will be consulted, as it is a requirement of Section 18 of the *Land Administration Act 1997* that the Minister for Land's consent is obtained.
25. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including lease land and buildings including advertising requirements. The Act requires the following:
  - a. A local government must give local public notice of the proposed lease 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.

26. The new lease will be advertised to comply with the requirements of Section 3.58 of the *Local Government Act 1995*.

### STATUTORY IMPLICATIONS

27. Section 18 of the *Land Administration Act 1997* states that a person shall not assign, sell, transfer or otherwise deal with interests on Crown land or create or grant an interest in Crown land without the prior approval in writing of the Minister for Lands.
28. As this is Crown land, under Management Order held by the City, the Minister's consent will be sought.
29. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including lease land and buildings including advertising requirements. The proposed lease will be advertised.

### POLICY IMPLICATIONS

30. Council adopted a revised Property Management – Leases and Licences Policy in September 2012.
31. 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.
32. The recommendation is consistent with Council Policy – Property Management – Leases and Licences.

### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation:</b> <i>Renewal of lease is not approved – services to marine operators limited</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction</i>
<b>Reputation &amp; Financial:</b> <i>If renewal of lease not approved – loss of rental income in the short term</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction</i>

### FINANCIAL IMPLICATIONS

34. All costs associated with the development, execution and completion of the Deed of Lease and Licence documentation will be met by the Lessee.

### LEGAL IMPLICATIONS

35. The Deed will be prepared by the City's lawyers.

## ENVIRONMENTAL CONSIDERATIONS

36. There are no environmental implications.

## ALTERNATE OPTIONS

37. Council may:

- Approve the request for the new lease and licence, or
- Decline the request.

38. Should Council decline the request, the Lessee may choose to take up the 10 year further term option and continue to occupy the lease areas.

## SUMMARY CONCLUSION

39. Council is requested to consider a new lease and licence to Darren and Linda Russell to continue providing slipway and marine maintenance services over the area currently occupied on Reserve 42964, Emu Point Marina.

40. The Lessee has occupied the site since 2002 and invested in major infrastructure on the lease areas, with further development proposed.

41. It is recommended the new lease and licence be supported.

<b>Consulted References</b>	:	Council Policy – Property Management – Leases and Licences <i>Local Government Act 1995</i>
<b>File Number (Name of Ward)</b>	:	PRO314 & PRO345 Breaksea Ward
<b>Previous Reference</b>	:	OCM 18.06.2002 Item 12.2.6 OCM 20.05.2003 Item 12.2.2 OCM 15.07.2003 Item 12.2.3 OCM 19.10.2004 Item 12.2.5



**CSF137: PROPOSED DISPOSAL OF 14 FLEMINGTON STREET, ORANA**

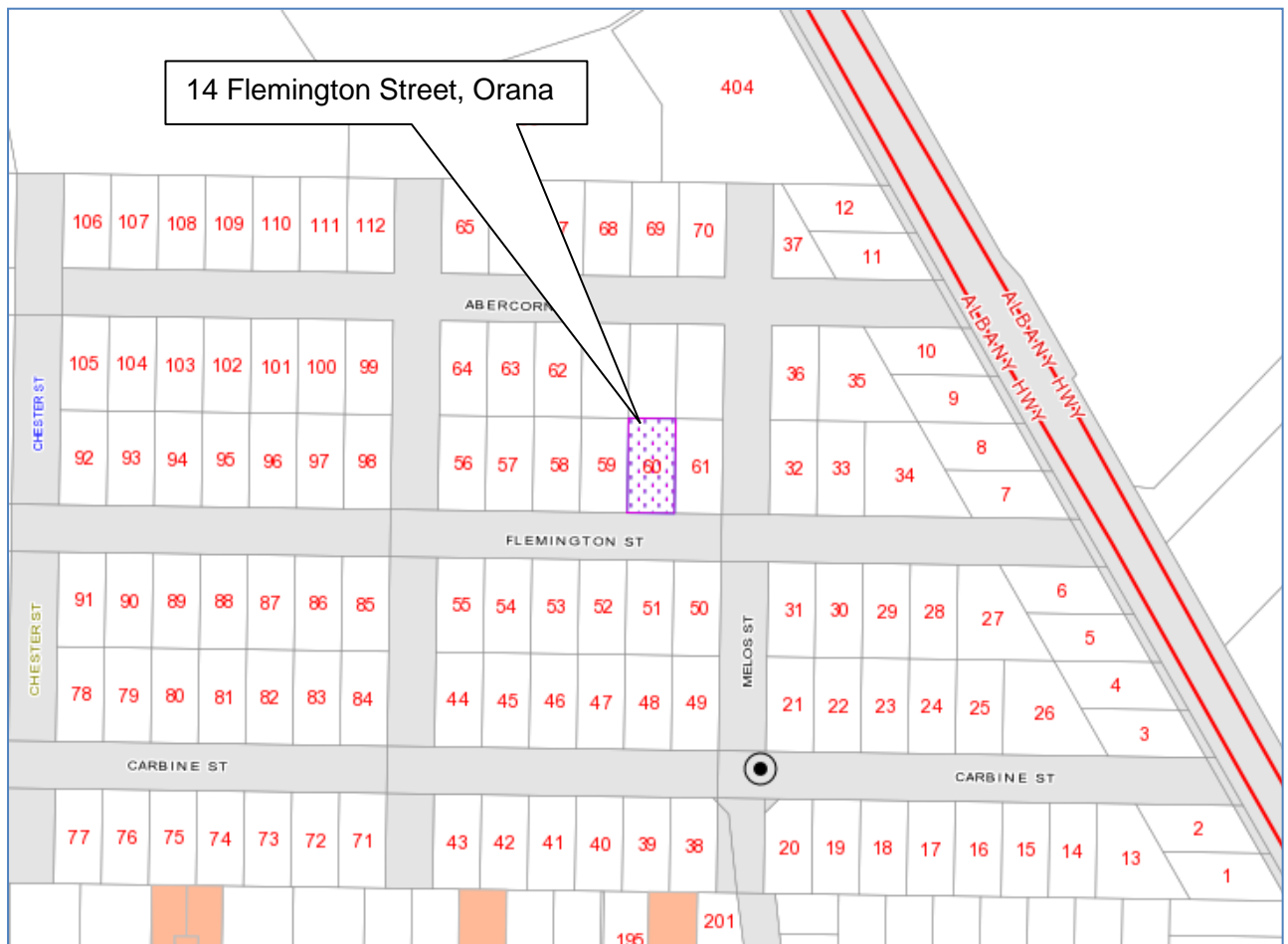
**Land Description** : Lot 60 No 14 Flemington Street, Orana  
**Owner** : City of Albany  
**Report Prepared by** : Senior Lands Officer (N Crook)  
**Responsible Officer** : Deputy Chief Executive Officer (G Adams)

**Responsible Officer’s Signature:**

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
  - a. **Key Theme:** 2 Clean, Green & Sustainable
  - b. **Strategic Objective:** 2.2 To maintain and renew city assets in a sustainable manner
  - c. **Strategic Initiative:** 2.2.1 Deliver effective asset planning and delivery programs

**Maps and Diagrams:**



**In Brief:**

- The City's Land Asset Review identified 14 Flemington Street for further investigation, as it did not appear to be used for any purpose.
- These investigations have shown that 14 Flemington Street is surplus to the City's strategic and operational requirements. As such, the Council is requested to consider the disposal of this property.

**RECOMMENDATION**

**CSF137: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council:**

1. **SUPPORT the proposed sale of Lot 60 No 14 Flemington Street, Orana, ensuring that all future actions to enable this to occur comply with the requirements of the *Local Government Act 1995* and the Council's *Disposal of Council Land Policy*.**
2. **AUTHORISE the Deputy Chief Executive Officer to finalise all dealings on this matter, in the event that no public submissions are received during the public consultation period objecting to the proposed disposal of the land. If objections are received, a further item to Council will be required.**

**BACKGROUND**

2. In 2013, the City undertook a review of its land assets, including Crown Reserves managed by the City and land held in freehold title, in order to identify land which may be under-utilised or unused. The outcomes of this project were presented to a strategic workshop of Council held in November 2013.
3. This project identified land parcels that may be surplus to requirements or having some further development potential, with the view to undertaking more detailed investigations prior to making a decision about their future use. No 14 Flemington Street was one of these land parcels, though it was not given a high priority to further investigation.

**DISCUSSION**

4. The further investigations undertaken on No 14 Flemington Street have concluded as follows:
  - a. The subject land title is free from encumbrances;
  - b. The land is in close proximity to power, water, sewer, gas and telephone services. Connection to these services will be required as part of the future development of the land and would be the responsibility of the prospective purchaser;
  - c. The land is level, predominantly cleared and fenced, making it suitable for residential development. There are no known environmental issues with this site; and
  - d. Both the Planning Services and Works & Services divisions have advised that this land is not required for any City infrastructure purpose and the disposal of the land is supported.

5. No 14 Flemington Street is zoned 'Residential R25' under the City's Local Planning Scheme No 1. A minimum and average lot size of 300m<sup>2</sup> and 350m<sup>2</sup> is permitted under this density coding. No 14 Flemington Street has a total land area of 809m<sup>2</sup>, making it a possible two grouped dwelling site.
6. An independent market valuation of the property has been undertaken by Opteon Property Group. This valuation amount will likely form the reserve price on any future tender process.
7. The valuer has noted that the rear fence line may be encroaching slightly on the subject land and it is recommended that a site survey be undertaken to confirm the boundaries of the site. This can be undertaken as part of the disposal process.

#### GOVERNMENT & PUBLIC CONSULTATION

8. No government or public consultation has been undertaken to date. Council's Policy *Disposal of Council Land* requires that the City advertise its intent to dispose of land prior to proceeding with the sale.
9. If Council supports the disposal of 14 Flemington Street, advertisements will be included in the local newspaper and adjoining owners will be notified directly. Should any objections be received on the proposed sale, a further item will be presented to Council to consider the submissions received.

#### STATUTORY IMPLICATIONS

10. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property. The Act requires the following:
  - a. A local government must dispose of property to the highest bidder at public auction or to the most acceptable tender made through public tender;
  - b. A local government can only dispose of property other than at public auction or tender if it first gives notice of the proposed disposal and Council considers any submissions made.
11. The subject land is zoned 'Residential R25' under the City of Albany *Local Planning Scheme No 1*. The *State Planning Policy 3.1 - Residential Design Codes* specify a minimum lot size of 300m<sup>2</sup> and an average lot size of 350m<sup>2</sup> be achieved within the R25 density coding.

#### POLICY IMPLICATIONS

12. The Council's Policy *Disposal of Council Land* applies to this proposal. This policy has a number of requirements that are relevant to this item, which are summarised as follows:
  - a. Council may decide to sell individual properties after considering the requirements of current strategic plans and when initiated by budget requirements, where Council determines that:
    - The land is surplus to Council's strategic requirements;
    - The land cannot be developed by Council to add value, due to the nature of the property or lack of resources;
    - The future value of the land is not predicted to significantly rise above normal property increases; and
    - A requirement for funding of projects is identified in the current business plan.

**Comment:** This land is considered to be surplus to Council’s strategic requirements and is not required for any operational purpose. It is not expected that property prices in this area will significantly increase in the near future. It is considered to be a far lesser financial risk to sell this land for development by a prospective purchaser, rather than the City undertaking development of the land for future sale. The funds raised from this sale may be used for other more beneficial strategic land purchases.

b. Before individual blocks may be sold, the following criteria must be observed:

- The land must be appropriately zoned for the anticipated use of the property;
- All matters relating to the development and servicing of the land shall be identified and made known to the selling agent;
- All legal requirements such as easements and caveats must be identified and in place;
- The boundary of the property shall be surveyed;
- Land will not be sold for an amount less than a value provided by a licensed professional valuer;
- Individual properties valued in excess of a Major Land Transaction will not be offered for sale until the requirements of the *Local Government Act 1995* are achieved.

**Comment:** The land is currently zoned Residential R25 and may be appropriately developed for residential purposes. Connection to services will be the responsibility of the prospective purchase as part of the future development of the land. The land will be surveyed prior to proceeding with the sale. This is not a Major Land Transaction as defined by the *Local Government Act 1995* (in excess of \$10,000,000). All requirements of this part can be achieved as part of the future sale of the land.

c. Land which is capable of being independently developed will be sold by public auction or tender and the City will give local notice of its intention to sell. Properties which fail to sell at auction or tender may be sold by negotiation. The City may impose conditions on the sale of the property but will not accept any conditional purchase offers.

**Comment:** These requirements are noted and will be observed, should Council resolve to sell the land. Public tender would be the preferred option for the sale, to avoid the appointment of a selling agent that would then require the payment of a commission.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<u>Reputation</u> Possible public perception that Council land should be used for the provisions of services rather than financial gain.	Possible	Minor	Medium	Observe the public notification requirements of the Disposal of Council Land Policy and address any queries that might arise, making clear that the land is not suitable for any particular purpose and that the monies will be directed to other strategic initiatives that will serve a greater public benefit.

**FINANCIAL IMPLICATIONS**

14. There will be costs associated with the sale of this property, including the survey of the land, legal and settlement fees and possible boundary fencing relocation. It is expected, based on the land's valuation that the net gain will be in the order of \$115,000 - \$120,000.
15. In line with Council Policy *Disposal of Council Land*, it is intended that the full amount of the net gain will be deposited into the City's Land Acquisition Reserve.

**LEGAL IMPLICATIONS**

16. Should Council wish to sell the subject land, it must ensure that the legislative requirements of the *Local Government Act 1995* and Council's *Disposal of Council Land Policy* are appropriately addressed.

**ENVIRONMENTAL CONSIDERATIONS**

17. There are no environmental considerations with this item.

**ALTERNATE OPTIONS**

18. Council may:
  - a. Decide to sell 14 Flemington Street and redirect any funds gained to other strategic initiatives; or
  - b. Hold onto 14 Flemington Street for future disposal and continue maintaining this property in the meantime.

**SUMMARY CONCLUSION**

19. The subject land is currently unused and is not required for any future strategic or operational use by the Council.
20. The sale of this land could net the City approximately \$115,000 - \$120,000 in profits that could then be redirected to other strategic initiatives.
21. All requirements of the *Local Government Act 1995* and Council's *Disposal of Council Land Policy* can be complied with provided that the land is offered for sale via public auction or tender. Public tender is the preferred option for the sale.

<b>Consulted References</b>	:	<i>Local Government Act 1995</i> <i>Local Government (Functions and General) Regulations 1996</i> <i>City of Albany Local Planning Scheme No 1</i> <i>City of Albany Policy – Disposal of Council Land</i>
<b>File Number (Name of Ward)</b>	:	A115805
<b>Previous Reference</b>	:	No previous references

14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL:**
15. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN:**
16. **REPORTS OF CITY OFFICERS:**
17. **MEETING CLOSED TO PUBLIC:**
18. **NEXT MEETING DATE:** 5.30pm Tuesday 10 February 2015
19. **CLOSURE OF MEETING:**