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# AGENDA

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## **DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING**

**Wednesday 4 December 2019**

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) **Functions:** The Committee is responsible for:

Development Services:

The delivery of the “*Liveable Environmental Objectives*” contained in the City of Albany Strategic Plan:

- Advocate, plan and build connected, liveable communities.
- Create a community that supports people of all ages and backgrounds.
- Create vibrant neighbourhoods which are safe yet retain our local character and heritage.

Infrastructure Services:

The delivery of the “*Clean and Green Objectives*” contained in the City of Albany Strategic Plan:

- To protect and enhance our pristine natural environment.
- To promote environmental sustainability.
- To promote our region as clean and green.

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

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

(3) **Membership:** Open to all elected members.

(4) **Meeting Schedule:** Monthly

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

(6) **Executive Officers:** Executive Director Infrastructure and Environment, Executive Director Development Services

(7) **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 ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE**

Mayor D Wellington

**Councillors:**

Member	P Terry
Member	J Shanahun
Member	S Smith
Member	M Benson-Lidholm JP
Member	C Thomson
Member	R Hammond
Member	E Doughty ( <b>Chair</b> )
Member	R Sutton
Member	R Stephens
Member	A Goode JP
Member	T Sleeman
Member	G Stocks

**Staff:**

Chief Executive Officer	A Sharpe
Executive Director Infrastructure, Development and Environment	P Camins
Manager Planning and Building Services	Jan van der Mescht
Meeting Secretary	Jenny Cobbold

**Apologies:**

**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 Development and Infrastructure Services Committee meeting held on 13 November 2019 as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**9. PRESENTATIONS**

**10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS**

## DIS188: PROPOSED ACCESS TO CITY-OWNED WATER STANDPIPES BY COMMUNITY USERS & COMMERCIAL OPERATORS

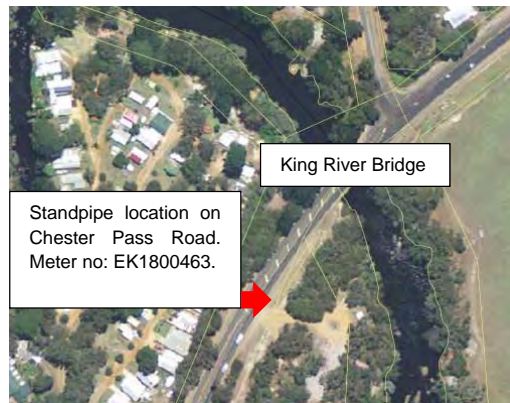
<b>Land Description</b>	: City of Albany Municipality
<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: 1. Water Corporation Fixed Standpipes FAQs 2. Guidelines for the Bulk Cartage of Drinking Water 3. Water Corporation Fire Standpipes Fact Sheet
<b>Report Prepared By</b>	: Manager Governance and Risk (S Jamieson) Personal Assistant (A Paulley)
<b>Responsible Officers:</b>	: Executive Director Infrastructure Development & Environment (P Camins)

*Note: A Confidential Briefing Note has been distributed under separate cover in accordance with section 5.23 of the Local Government Act 1995(2)(e)(iii), being a matter that if disclosed, would reveal information about the commercial affairs of a person other than the Local Government.*

### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** Leadership.
  - **Objective:** To provide strong, accountable leadership supported by a skilled and professional workforce
  - **Community Priority:** Provide positive leadership that delivers community outcomes.

### Maps and Diagrams:



### In Brief:

- On 1 July 2019, the Water Corporation introduced new charges for Local Government standpipes in order to regulate the use of and pricing for water as a valuable natural resource.
- Local Governments were asked to control access to their standpipes in order to manage water usage by community and commercial users.
- Local Governments are entitled to access concessional pricing for water used for their own purposes but the Water Corporation was aware that some commercial operators were accessing Local Government-owned standpipes at concessional rates, rather than at higher commercial rates.
- Council is requested to determine if the City should facilitate or not facilitate the selling of water to community and commercial users.

- Three policy positions have been prepared for Council review in relation to requested determination.

## RECOMMENDATION

### DIS188: RESPONSIBLE OFFICER RECOMMENDATION

#### THAT Council:

**(1) ADOPT the following policy position:**

***“Commercial access to City-owned standpipes be permitted, but limited to water carters on a cost recovery basis (including an administration/maintenance fee).”***  
*(Option 1 as detailed in the report).*

**(2) ENDORSE the Officers course of action to:**

- (a) APPROVE use of the 40mm Chester Pass Road standpipe, meter number EK1800463, for access by commercial operators for the purpose of carting potable water to Albany residents who are not connected to scheme water.**
- (b) The creation of a City of Albany standpipe access administrative policy and approval process, which includes the requirement for commercial carters to be registered as a food business.**
- (c) Permit the use of potable water from standpipe meter number EK1800463 for residential supply only, except in a declared drought or major fire.**

## BACKGROUND

2. In September 2017, the Water Corporation conducted a review of fixed standpipe services in Western Australia. As part of the stakeholder consultation, City officers provided feedback that they had not experienced excessive use of City standpipes by community and commercial users, and suggested that the Water Corporation could install card systems to control use by commercial contractors.
3. At that time, the City owned and operated 17 standpipes, allowing access to some of them by commercial water carting contractors. There were 4 contractors who were charged \$2.50 per 1,000 litres of water. They were issued with documents to record their water usage and would submit them on an ad-hoc basis to City officers for invoicing.
4. In August 2018, the Water Corporation announced changes to pricing of potable water from Local Government-owned fixed standpipes in country areas, effective from 1 July 2019. LGAs were entitled to access concessional pricing for water used for their own purposes. However, high flow rate LGA standpipes (larger than 25mm) which were accessible to the public would be charged at higher commercial rates. There was, and still is, no charge for water consumption for fire-fighting purposes.
5. The Water Corporation asked Local Governments to re-categorise their standpipes and decide if they wanted to be in the business of selling water.
6. City officers identified 5 unrequired standpipes for decommissioning. They also concluded that the City should not be in the business of selling water for the following reasons:
  - a. It was not the City of Albany’s core business to provide water.
  - b. Two commercial operators in Albany had already expended significant funds to install their own private standpipes and assisting other commercial operators could be viewed as inequitable.
  - c. This was perceived to be a cost shifting exercise from State Government to Local Government.



7. In December 2018, the Water Corporation advised LGAs to lock their dedicated fire-fighting standpipes in order to prevent public and commercial use at all times (Attachment 3). All the City's fire standpipes were padlocked in December 2018.
8. Standpipes are now only accessible to the City's emergency services staff together with bushfire brigade staff and volunteers. Signs were installed at fire standpipes advising the community that they were for fire-fighting and training use only. However, three commercial contractors were given keys to access water from the King River fire standpipe on Chester Pass Road as a temporary arrangement until 1 July 2019. This 40mm standpipe gave a sufficient flow rate for commercial operators. They were invoiced for their water usage only.
9. Contractors returned their standpipe keys in June 2019 and there has been no known access to any City-owned standpipes by community or commercial users since 1 July 2019.
10. The City of Albany currently operates 12 standpipes - 11 for fire-fighting and 1 located at the Mercer Road depot used for public works. The Mercer Road depot standpipe is located within the secure depot compound and is only accessible to City staff and authorised contractors working on City projects.
11. Officers obtained quotes for solar-powered, internet-connected standpipe controller systems with swipe cards for users. The price per standpipe system was approximately \$17,400 ex-GST plus plumbing costs. Ongoing charges for software, customer support, cloud-based server and annual inspection fees totalled \$1,305 ex-GST per annum.
12. Example of standpipe controller system:-

- Free standing unit ready for connection by local plumber.
- The frame requires a small concrete pad of 1 x 1m and about 150 mm thick.
- Each user has a swipe card to access the water supply.
- Once the user is provided with access (the light flashes green), the start button opens the motorised valve and the water meter will start recording the usage and logs that against the person linked to the access card.



## DISCUSSION

13. Changes in water charges by the Water Corporation on rural fixed water standpipes has facilitated a review of how the City manages its standpipe assets.
14. It is acknowledged that water is a valuable and scarce commodity, and that access to potable water is important to the community, essentially a human right.

### Fire Fighting:

15. Access to standpipes for a fire emergency will remain the same, with all Brigade Bush Fire Control Officers (BFCO's) being issued with a key to unlock padlocks on fire standpipes.

### Potable Water Access:

16. As stated in the Water Corporation's Frequently Asked Questions (FAQs) document (Attachment 1), Local Governments are able to set the price for on-selling water at their discretion. Charging GST on water is not permitted.

17. Consultation with local commercial water carting contractors identified only 2 operators who requested access to City-owned standpipes. The other 2 operators have installed their own standpipes.
18. Officers believe that, at this stage, the City can avoid installing costly standpipe control systems by setting up a basic user pays system, similar to the one being operated by the Shire of Augusta-Margaret River. Noting, an electronic standpipe control system, could be installed in the future if the number of community / commercial users increases.

**Public Health:**

19. The City's Environmental Health Officers have advised that potable water carting businesses that transport quantities in excess of 100 litres of water need to comply with the Department of Health's *Guidelines for the Bulk Cartage of Drinking Water* (Attachment 2). The purpose of the guidelines is to ensure that equipment used to collect, contain and transport drinking water does not become a source of contamination which can cause illness or disease.
20. The Guidelines for Bulk Cartage of Drinking Water address the following issues:
  - responsibilities of the carrier
  - design, construction, maintenance of containers and fitments
  - selection of drinking water sources
  - collection, transportation and discharge
  - disinfection of drinking water
  - consumer advice
  - record keeping.
21. The water carrier is responsible for ensuring that the water provided to consumers complies with the *Australian Drinking Water Guidelines 2004*. This includes the chemical and bacterial quality of the water.
22. Potable water carriers must notify the local government in which the vehicles are normally kept, and must register as food business with the local government, prior to commencing operation. The Local Government Environmental Health Officer will undertake an inspection of the vehicle and check safe processes are in place and contamination risks are minimised, prior to issuing a Food Business Registration Certificate.
23. It is recommended that Commercial water carting operators who access City standpipes be registered as a food business if the water is intended for human consumption and use (i.e. showering).

**Proposed Process:**

24. **Option 1:** For each load of water taken, approved users would first obtain a standpipe key from the City's Mercer Road depot and later return the key with a completed standpipe record of readings form.
25. The standpipe would be accessible during depot office hours only, i.e. Monday to Friday, 7.30am – 4.30pm.
26. **Option 2:** Alternatively, users could be given a key to access the standpipe at any time and submit their completed standpipe record of readings forms every 2 months to coincide with billing times.

28. When the City receives bi-monthly invoices from the Water Corporation, it would on-charge the costs by:-
- Equally dividing the annual service charges between commercial operators;
  - Allocating the water usage costs based on the litres stated on the record of readings forms completed by each operator; and
  - Adding a fee to cover administration and maintenance costs of operating this service for the public.

## GOVERNMENT & PUBLIC CONSULTATION

### 29. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Inform	Public Notice in newspapers Great Southern Weekender Albany Advertiser.	19 & 26 September 2019 17 & 26 September 2019	1 phone call from a resident who was on scheme water and wanted to complain about the proposed pipeline from Albany to Denmark.	N/A
Consult	Survey forms emailed to 4 known water carting contractors in Albany.	Surveys emailed on 10 September 2019. Deadline for return of completed surveys was 11 October 2019.	3 completed survey forms were returned.	N/A

## STATUTORY IMPLICATIONS

30. In accordance with section 6.19 of the Local Government Act 1995, changes to fees and charges: If a Local Government wishes to impose any fees or charges after the annual budget has been adopted, it must, before introducing the fees or charges, give local public notice of:
- its intention to do so; and
  - the date from which it is proposed the fees or charges will be imposed.

## POLICY IMPLICATIONS

31. It is recommended that the current arrangements for standpipe use remain in place until a policy position is made by Council.
32. The following proposed policy positions are proposed for review:-
- Commercial Standpipe:** Should City-owned standpipes be made available to commercial operators to purchase water? Yes or No.
  - Declared Drought Conditions:** That during a declared Water Deficiency Event (drought) made by the State Government, farmers will be provided access to water from any standpipe at a concessional rate, in accordance with the deficiency declaration.

- d. **Firefighting:** All standpipes be made available for firefighting. Bush Fire Brigades to be issued a key to unlock the padlocks during a fire incident. Noting farm fire-fighting tanks should be filled from a local water source from the owner's property (eg. dams) and not utilise potable water for that purpose. However, in the event of a fire, farmers can use any standpipe to fill their units.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Business Operation, Reputation &amp; Financial.</b></p> <p><b>Risk:</b> There is a risk that by not allowing community &amp; commercial users access to City standpipes, those residents who are not connected to scheme water will find it difficult to access potable water.</p>	Likely	Moderate	High	Establish a proposed policy position and allow access to a City-owned standpipe, balancing community need and cost recovery.
<p><b>Opportunity:</b> Facilitate the human right to access potable water for residents not connected to scheme water, while ensuring that the valuable resource is not exploited by commercial operators.</p>				

## FINANCIAL IMPLICATIONS

### Water Charges

34. The City received advice from the Water Corporation that new pricing of water from Council-owned standpipes would come into effect and increase from 1 July 2019.
35. Currently, Council approved fee, charges \$2.53 per kilolitre and does not on-sell for profit.
36. Annual water service charges have not been on-charged to users in the past.
37. For the Chester Pass Road standpipe, meter number: EK1800463, The City would be charged the following based on current 2019/2020 rates:-

Chester Pass Road - Meter Number: EK1800463 (formerly meter number EK0700752 – the old faulty meter was recently replaced)	
40mm meter water service charge	\$1,088.27 annually or \$181.37 bi-monthly (based on 6 meter readings per year)
Water usage charge (per kilolitre = 1,000 litres)	Town Class Step 11 applies which is currently \$6.089 per kilolitre

38. Council will be required to amend its fee for the current and future budgets if it chooses to provide water.
39. GST must not be charged on the annual service charges or the water use charges. The City could only charge GST on its administration/infrastructure maintenance fee when invoicing community users or commercial operators.

**Commercial Water Access Facilities**

40. If Council chooses to upgrade and / or supplement its water standpipe system by installing controllers at standpipes, the following is proposed:-
- Access to any designated, metered City standpipe may be controlled with an electronic swipe card system, with all costs being passed on to community and commercial users.
41. The City has not set a proposed revised fee yet (*this will happen as part of a budgeting amendment process for the current budget*). However, the rate will not be less than the rate charged by the Water Corporation, which is currently up to \$8.353 per kilolitre depending on the size of the standpipe.

**LEGAL IMPLICATIONS**

42. It is a human right to have access to potable water.
43. The entity (Federal, State or Local) responsible for providing access to water is debateable.

**ENVIRONMENTAL CONSIDERATIONS**

44. It is considered appropriate to develop a policy position to ensure that the human right to access potable water for residents not connected to scheme water is maintained or improved, while ensuring that the valuable resource is not wasted.
45. The Water Corporation has decided not to decommission the 5 unrequired standpipes identified by the City. Instead, it will cap them to ensure easy access in case of future droughts and major fire events.

**ALTERNATE OPTIONS**

46. Council has three main options to consider:-
- **Option 1:** Provide commercial access to City-owned standpipes to Commercial water carters on a cost recovery basis plus an administration/maintenance fee; and/or
  - **Option 2:** Provide community / commercial users with access to City-owned standpipes via controlled standpipe infrastructure; or
  - **Option 3:** Not provide community / commercial users with access to City-owned standpipes and refer them to the Water Corporation.

**CONCLUSION**

47. It is recommended that the Chester Pass Road standpipe meter number EK1800463 be made available to identified commercial operators for the purposes of carting potable water to Albany residents who are not connected to scheme water, while complying with the conditions detailed above.

<b>Consulted References</b>	:	Further information from the Water Corporation on Fixed Standpipes can be accessed on <a href="#">their website</a> .
<b>File Number (Name of Ward)</b>	:	GR.STL.91 and CR.COC.66 (All Wards)
<b>Previous Reference</b>	:	Nil

## DIS189: ROAD WIDENING – INTERSECTION OF LOWER DENMARK ROAD & TENNESSEE ROAD SOUTH

<b>Land Description</b>	: Unallocated Crown land Lot 3663
<b>Proponent / Owner</b>	: State of WA
<b>Attachments</b>	: NIL
<b>Report Prepared By</b>	: Lands Officer (A Veld)
<b>Responsible Officers:</b>	: Executive Director Infrastructure, Development and Environment (P Camins)

### STRATEGIC IMPLICATIONS

1. This item relates to the following element of the City of Albany Strategic adopted *Community Strategic Plan – Albany 2030*:
  - **Theme:** A connected and safe built environment.
  - **Objective:** To advocate, plan for and build friendly and connected communities
  - **Community Priority:** Improve connectedness and traffic flows via a well-designed and safe transport and pathway network that connects people and services and encourages pedestrians and cyclists.

### Maps and Diagrams:



### In Brief:

- In 2016, the City of Albany sent a request to the Minister for Lands to dedicate a portion of Lot 3663 Unallocated Crown Land as road reserve.
- The dedication was subsequently put on hold pending finalisation of the South West Native Title Settlement matter, which is now under Judicial Review (delaying proceedings).

- The City now seeks to request the Minister for Lands to validate the proposal as a future act under section 24KA of the *Native Title Act 1993 (Cth)* so the land can be dedicated as road reserve independent of the South West Native Title Settlement.
- The Department of Planning Lands & Heritage now require a Council resolution in order to progress this matter under section 24KA of the *Native Title Act 1993 (Cth)*.

## RECOMMENDATION

### DIS189: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council;

**SEEKS** the Minister for Lands approval, under section 56 of the *Land Administration Act 1997*, to acquire a 351m<sup>2</sup> wide portion of land from Lot 3663 Unallocated Crown Land, Lowlands, for the purposes of dedicating it as a road reserve;

**INDEMNIFIES** the Minister for Lands from any claims for compensation, as is required under Section 56 of the *Land Administration Act 1997*; and

**INDEMNIFIES** and will keep indemnified the State of Western Australia, the Department of Planning Lands & Heritage and the Minister for Lands and hold them harmless from and against all liabilities, obligations, costs, expenses or disbursements of any kind including and without limitation, compensation payable to any party under the *Native Title Act 1993 (Cth)* which may be imposed on or incurred by the Indemnified Parties relating to or arising directly or indirectly from the road dedication.

## BACKGROUND

1. In 2016 the City of Albany sent a request to dedicate portion of Lot 3663 Unallocated Crown Land as road reserve.
2. Due to this land being Unallocated Crown Land, it was allocated for inclusion into the South West Native Title Settlement package.
3. As a result of this, the City's proposal was subsequently put on hold pending finalisation of the Settlement, which is now under Judicial Review. This review can potentially further delay City proceedings and operations.

## DISCUSSION

4. The Department of Planning Lands & Heritage have requested that the City provide a Council resolution under Section 56 of the *Land Administration Act 1997* and indemnify the State of Western Australia, the Department of Planning Lands & Heritage and Minister for Lands, as is required under the *Native Title Act 1993 (Cth)*.

## GOVERNMENT & PUBLIC CONSULTATION

5. A Public notice was placed in the Albany Advertiser on 22 November 2016 asking for submission on the proposal.
6. The public comment period was open for 45 days with no comments having been received by submission close on 6 January 2017.
7. The City also sent letters out to all service providers on 16 November 2016. Five responses were received with no objections to the proposal.
8. Community Engagement (Examples)

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Mail Out	22/11/2016 – 6/01/2017	none	yes
Consult	Public Notice	16/11/2016-06/01/2017	5	yes

## STATUTORY IMPLICATIONS

9. The City of Albany has delegated authority to forward road dedication requests to the Minister for Lands without a Council resolution.
10. Notwithstanding the above, in order for this proposal to be considered under section 24KA of the *Native Title Act 1993*, the Department of Planning Lands & Heritage require the matter to be put before Council.

## POLICY IMPLICATIONS

11. There are no policy implications relating to this report.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Financial</b></p> <p><b>Risk:</b> There is a risk that by not progressing with the proposal under 24 KA of the <i>Native Title Act 1993</i>, the dedication may not be able to progress and will be dependent upon the South West Native Title Settlement being finalised.</p> <p><b>Opportunity:</b> To expend funds as per the 2016 Lands budget</p>	Likely	Minor	Medium	If the proposal is not progressed, the City will have this matter pending finalisation of the South West Native Title Settlement.

## FINANCIAL IMPLICATIONS

13. Costs for advertising and preparation of a Deposited Plan were identified during the project planning process and allocated from the 2016/17 Lands budget. This allocation has now rolled over for 4 years.

## LEGAL IMPLICATIONS

14. There are no legal implications relating to this report.



**ENVIRONMENTAL CONSIDERATIONS**

15. There are no environmental considerations relating to this report.

**ALTERNATE OPTIONS**

16. Council may consider alternate options in relation to this item, such as
- a. Deny the request to dedicate the proposed portion of Unallocated Crown Land under section 56 of the *Land Administration Act 1997* and validate the proposal as a future act under section 24KA of the *Native Title Act 1993 (Cth)*; or
  - b. Support the request to dedicate the proposed portion of Unallocated Crown Land under section 56 of the *land Administration Act 1997* and validate the proposal as a future act under section 24KA of the *Native Title Act 1993 (Cth)* with modifications.

**CONCLUSION**

17. In 2016 the City of Albany sent a request to dedicate portion of Lot 3663 Unallocated Crown Land as road reserve.
18. Due to this land being Unallocated Crown Land, it was allocated for inclusion into the South West Native Title Settlement package.
19. As a result of this, the City’s proposal was subsequently put on hold pending finalisation of the Settlement, which is now under Judicial Review.
20. The City now seeks to request the Minister for Lands to validate the proposal as a future act under section 24KA of the *Native Title Act 1993 (Cth)* so the land can be dedicated as road reserve independent of the South West Native Title Settlement.
21. The Department of Planning Lands & Heritage now require a Council resolution in order to progress this matter under section 24KA of the *Native Title Act 1993 (Cth)*.

<b>Consulted References</b>	:	<i>Land Administration Act 1997</i> <i>Native title Act 1993 (Cth)</i>
<b>File Number (Name of Ward)</b>	:	RD.ACQ.1 (West)
<b>Previous Reference</b>	:	

**DIS190: HOLIDAY ACCOMMODATION – 62 PARADE STREET,  
ALBANY WA 6330**

<b>Land Description</b>	: Lot 14, 62 Parade Street, Albany WA 6330
<b>Proponent</b>	: JP & CJ Mead
<b>Business Entity Name</b>	: NIL
<b>Attachments</b>	: 1. Area Plan 2. Copy of Application 3. Schedule of Submissions
<b>Supplementary Information &amp; Councillor Workstation Report Prepared By</b>	: NIL
<b>Responsible Officers:</b>	: Coordinator Planning Services - (A Bott) Executive Director Infrastructure, Development and Environment (P Camins)

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed development application, Council is obliged to draw conclusion from its adopted *Community Strategic Plan – Albany 2030*.
  - a) The *Albany Community Strategic Plan – Albany 2030* recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).
3. The item relates to the following Strategic Objective of the Albany Local Planning Strategy (ALPS):
  - a) *Enable tourist growth and diversification through land use planning mechanisms.*

**Maps and Diagrams:** Subject Site – 62 Parade Street, Albany



**In Brief:**

- On 2 October, 2019, the City of Albany received a planning application for Holiday Accommodation at 62 Parade Street, Albany.
- The matter was subject to public advertising. Through this process, three submissions raising concerns with the proposal were received.
- Due to the provisions of the City of Albany's Holiday Accommodation Policy, the proposal is required to be referred to Council for determination.
- Staff consider that the proposal is in accordance with City of Albany Holiday Accommodation policy and recommend the proposal be supported subject to conditions.

**RECOMMENDATION**

**DIS190: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for Holiday Accommodation at 62 Parade Street, Albany:**

**Conditions:**

1. All development shall occur in accordance with the stamped, approved plans referenced P2190481 and dated **XX XX 2019**, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.
3. A revised management plan shall be submitted, approved and implemented to the satisfaction of the City of Albany, the revised plans to address the following;
  - Reducing number of guests to eight;
  - Additional measures in relation to pets creating disturbance.
4. The operation of the holiday accommodation hereby approved shall be in accordance with the approved management plan, which shall be reviewed and updated at the time of any change of ownership or management, to the satisfaction of the City of Albany.
5. The holiday accommodation hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust to any extent greater than what is to be expected within a residential zone.
6. The holiday accommodation hereby approved shall only be used for short stay accommodation, with any single tenant permitted to stay for no more than three months in any twelve month period.

- 7. The operator or manager of the holiday accommodation hereby approved shall maintain an annual register of all guests to the satisfaction of the City of Albany. A receipt book must also be kept.**
- 8. Each bedroom utilising beds shall have a floor space of not less than four square metres per person; each bedroom utilising bunks shall have a floor space of not less than 2.5 square metres.**
- 9. Sign(s) shall not be erected on the lot without the prior approval of the City of Albany.**  
  
***Advice Condition 10:***  
  
***Please refer to the City of Albany Local Planning Policy 2B – Signs for further information.***
- 10. Two tandem parking spaces shall be provided per approved holiday accommodation on the lot.**
- 11. Vehicular parking must be contained within the lot boundaries at all times.**
- 12. Lighting devices are to be positioned and shielded so as not to cause any direct, reflected or incidental light to encroach beyond the property boundaries, in accordance with Australian Standard AS4282/1997.**

## **BACKGROUND**

4. Local Planning Scheme No. 1 was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. The site is located approximately 300m west of the Albany CBD. The property is 1012m<sup>2</sup> in size and zoned Residential R30 under Local Planning Scheme No.1.
6. The immediate surrounding properties are also zoned Residential R30.
7. The application was advertised for public comment for a period of 21 days, with nearby landowners directly notified by letter.
8. Three submissions were received during advertising which raised concerns in respect to the proposal. The concerns raised are summarised later in this item.
9. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

## **DISCUSSION**

10. The applicant has provided the following (summarised) outline of how the proposed holiday house will operate:
  - The property will be managed by the landowners, with additional management and maintenance assistance provided from a resident based in Albany.

- A maximum of eight guests is proposed (originally 12).
  - Parties and functions are prohibited, further to this, excessive noise will result in eviction
  - No functions or parties being permitted that would conflict with residential amenity.
  - Pets are proposed to be permitted if kept outside.
  - Guests and visitors must comply with access and parking regulations provided.
11. The main planning concerns raised and the proposed mitigation measures are addressed, as follows;
- The proposal potentially impacting upon the amenity and character of the area;
  - Concerns in relation the number of guests;
  - The proposed holiday accommodation allowing pets;
  - Existing lighting at the rear of the property being excessive; and
  - Proliferation of Holiday homes.
12. The applicant was contacted in relation to the number of guests proposed and has agreed to reduce the number to eight. A condition will be applied for the management plan to include this revision.
13. In respect to the amenity and character of the area, it is necessary to consider that the proposal is located within the preferred area for holiday accommodation within the City of Albany Holiday Accommodation Local Planning Policy. It is considered that with the implementation of a suitable management plan as a condition of approval, that the use will not detrimentally affect the character or amenity of the area.
14. The keeping of domestic animals is permitted on a residential property. The proponent has included a number of provisions within the management plan outlining that pets must remain outside, be flea free and not damage the garden. While these provisions protect the landowner's property, it is considered appropriate for more measures to be added to protect the amenity of the surrounding area. It is therefore recommend that a condition be put on the approval requiring additional management measures in respect to pets.
15. In respect to the issue raised in relation to the lighting located at the rear of the property, it is considered that a condition requiring compliance with Australian Standard AS4282/1997 will be appropriate. The referenced Australian standard covers the matter of light spillage from properties and the impact they have on adjoining properties. It is expected that modification to the bulb type or adjustment of the angle will mitigate this matter.
16. In relation to the comments made regarding the perceived proliferation of holiday homes, it is necessary to consider that the Holiday House is classified as a "D" use within the 'Residential' zone under *Local Planning Scheme No. 1*. Further to this, the City of Albany's Local Planning Policy covering the matter outlines the location of the proposal as being within the preferred area.
17. The application is considered to be generally consistent with the City of Albany's Holiday Accommodation Local Planning Policy. Further to this, it is considered that any potential amenity impacts will be mitigated by the proposed management measures and revised parking plan.

## GOVERNMENT & PUBLIC CONSULTATION

18. The application was advertised for public comment for a period of 21 days, with nearby landowners directly notified by letter.
19. Three submissions were received during advertising which raised concerns in respect to the proposal. The broad issues are discussed in the paragraphs, above and in the attached schedule of submissions.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Mail Out	9/10/2019 to 31/10/2019	3 Submissions received	Yes

## STATUTORY IMPLICATIONS

20. A Holiday House is classified as a “D” use within the ‘Residential’ zone under *Local Planning Scheme No. 1*, meaning that the use is not permitted unless the Local Government has exercised its discretion by granting planning approval.
21. Voting requirement for this item is **SIMPLE MAJORITY**

## POLICY IMPLICATIONS

22. The proposal is subject to the City of Albany Holiday Accommodation Local Planning Policy.
23. The primary reason the matter has been referred to council for consideration is due to the position within this policy which states;

*“Where a neighbour objects to a proposal, the application is to be referred to the Council for deliberation and considered in view of the following:*

- a. *The proximity of the holiday accommodation to key tourism attractions such as the beach or town centre/activity centre (typically a 5 minute walk – 400m);*
- b. *location within a street(s) which facilitates safe, efficient and pleasant walking, cycling and driving;*
- c. *location compatible with Figure A below (the areas illustrated are within close proximity to the town centre and popular swimming beaches).”*
- d. *A management plan designed to facilitate community concerns.*

24. The following comments are made in respect to the above matters of consideration:
25. As per Figure A of the Local Planning Policy, the proposal is located within the preferred area for Holiday Accommodation.
26. In accordance with the policy, the applicant has also submitted a management plan which controls the usage of the property and places clear guidance for its use. Measures to protect amenity through the management of the site include;
  - A maximum of eight guests is now proposed.
  - Parties and functions are prohibited, further to this, excessive noise will result in eviction
  - No functions or parties being permitted that would conflict with residential amenity.

- Pets are proposed to be permitted if kept outside.
- Guests and visitors must comply with access and parking regulations provided.

27. It is considered that the proposal meets the key matters of the Holiday Accommodation Local Planning Policy and is capable of approval subject to appropriate conditions.

### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation.</b> <i>The approval may generate unacceptable impacts on the amenity on the area.</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>The application and adherence of appropriate planning conditions will mitigate this risk.</i>
<b>Opportunity:</b> <i>Responds to market demand for holiday accommodation in a controlled fashion.</i>				

### FINANCIAL IMPLICATIONS

29. There are no financial implications directly relating to this item.

### LEGAL IMPLICATIONS

30. As per the appeal rights conferred by the *Planning and Development Act 2005*, the decision on the matter can be appealed to the State Administrative Tribunal.

### ENVIRONMENTAL CONSIDERATIONS

31. There are no environmental implications directly relating to this item.

### ALTERNATE OPTIONS

32. Council has the following alternate options in relation to this item, which are:

- To resolve to refuse the proposal subject to reasons; and
- To resolve to approve the proposal subject to additional or modified conditions.

### CONCLUSION

33. The proposal is considered to be consistent with the objectives of the zone and the requirements of the *City of Albany's Holiday Accommodation* local planning policy.
34. The proposal has been modified to reduce the number of guests and include additional management measures in respect to pets on the premises.
35. The matters raised in the public submissions received during the advertising period have also been broadly addressed by the proponent and can be mitigated through the application of appropriate planning conditions.
36. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme No.1;</i> 2. <i>Holiday Accommodation Local Planning Policy</i>
<b>File Number (Name of Ward)</b>	:	A107339 Frederickstown Ward
<b>Previous Reference</b>	:	Nil

**DIS191: HOLIDAY ACCOMMODATION – 2 O’KEEFE PARADE,  
MCKAIL WA 6330**

<b>Land Description</b>	: 2 O’Keefe Parade, McKail WA 6330
<b>Proponent</b>	: Neville Davidson & Natalya Davidson
<b>Business Entity Name</b>	: NIL
<b>Attachments</b>	: 1. Area Plan 2. Copy of Application
<b>Supplementary Information &amp; Councillor Workstation</b>	: NIL
<b>Report Prepared By</b>	: Coordinator Planning Services - (A Bott)
<b>Responsible Officers:</b>	: Executive Director Infrastructure, Development and Environment (P Camins)

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed development application, Council is obliged to draw conclusion from its adopted *Community Strategic Plan – Albany 2030*.
  - a) The *Albany Community Strategic Plan – Albany 2030* recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).
3. The item relates to the following Strategic Objective of the Albany Local Planning Strategy (ALPS):
  - a) *Enable tourist growth and diversification through land use planning mechanisms.*

**Maps and Diagrams:** Subject Site – 2 O’Keefe Parade, McKail WA 6330





**In Brief:**

- On 17 September, 2019, the City of Albany received a planning application for Holiday Accommodation at 2 O'Keefe Parade, McKail.
- The matter was subject to public advertising. Through this process, one submission raising concerns with the proposal was received.
- Due to the provisions of the City of Albany's Holiday Accommodation Policy, the proposal is required to be referred to Council for determination.
- The proposal is located outside of the preferred holiday home area as outlined within the Holiday Accommodation policy.
- Staff consider that the proposal is capable of approval when assessed against the City of Albany Holiday Accommodation policy and recommend the proposal be supported subject to conditions.

**RECOMMENDATION**

**DIS191: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for Holiday Accommodation at 2 O'Keefe Parade, McKail WA 6330:**

**Conditions:**

1. **All development shall occur in accordance with the stamped, approved plans referenced P2190455 and dated XX XX 2019, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.**
2. **If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.**
3. **A revised management plan shall be submitted, approved and implemented to the satisfaction of the City of Albany, the revised plans must address the following;**
  - **Additional controls in respect to amenity impacts.**
4. **The operation of the holiday accommodation hereby approved shall be in accordance with the approved management plan, which shall be reviewed and updated at the time of any change of ownership or management, to the satisfaction of the City of Albany.**
5. **The holiday accommodation hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust to any extent greater than what is to be expected within a residential zone.**
6. **The holiday accommodation hereby approved shall only be used for short stay accommodation, with any single tenant permitted to stay for no more**

than three months in any twelve month period.

7. **The operator or manager of the holiday accommodation hereby approved shall maintain an annual register of all guests to the satisfaction of the City of Albany. A receipt book must also be kept.**
8. **Each bedroom utilising beds shall have a floor space of not less than four square metres per person; each bedroom utilising bunks shall have a floor space of not less than 2.5 square metres.**
9. **Sign(s) shall not be erected on the lot without the prior approval of the City of Albany.**

***Advice Condition 10:***

***Please refer to the City of Albany Local Planning Policy 2B – Signs for further information.***

10. **Vehicular parking must be contained within the lot boundaries at all times.**
11. **Lighting devices are to be positioned and shielded so as not to cause any direct, reflected or incidental light to encroach beyond the property boundaries, in accordance with Australian Standard AS4282/1997.**

## **BACKGROUND**

4. Local Planning Scheme No. 1 was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
5. The site is located approximately 5km north west of the Albany CBD. The property is 602m<sup>2</sup> in size and zoned Residential R20 under Local Planning Scheme No.1.
6. The immediate surrounding properties are also zoned Residential R20, there is also a parcel of reserve for recreation 20m to the east.
7. The application was advertised for public comment for a period of 21 days, with nearby landowners directly notified by letter.
8. One submission was received during advertising which raised concerns in respect to the proposal. The concerns raised are summarised later in this item.
9. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

## **DISCUSSION**

10. The applicant has provided the following (summarised) outline of how the proposed holiday house will operate:
  - Maximum number of guests will be six;

- The phone numbers for managers will be distributed to surrounding property owners;
  - Control of parties being permitted that would conflict with residential amenity; and
  - A register of guests will be maintained.
11. The main planning concerns raised and the proposed mitigation measures are addressed, as follows;
- The proposal potentially impacting upon the amenity and character of the area;
  - Concerns with how the management plan will be implemented
  - Property values
  - How will individuals be vetted
  - Has the application already been approved?
12. It is considered that with the implementation of a suitable management plan as a condition of approval, that the use will not detrimentally affect the character or amenity of the area. As the proposal is located outside of the preferred area it is considered of importance that a management plan which covers more detail and provides a robust framework for compliance be submitted as a condition of consent.
13. The submission received also raised the matter of how the management plan is enforced. Firstly, the management plan forms a condition of consent and is required to be complied with in perpetuity. It is the responsibility of the landowner to ensure guests comply with the management plan. In the instance a management plan is not being enforced by the owner, it can be pursued in accordance with the statutory powers relating to compliance provided for within the *Planning and Development Act 2005*
14. The proposal is located outside of the preferred area for holiday homes within the Holiday Accommodation policy. While the proposal is outside of the preferred area, it is still capable of approvals on the basis that while the policy outlines the preferred area, it does ultimately remain a policy position that the City is required to consider flexibly with regard to the merits of the particular matter. Further to the above, the land use of Holiday Home is classified as a 'D' use within the Residential zone.
15. Property values are not a matter outlined within cl 67 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and is therefore not a matter which can be taken into consideration in the assessment process.
16. It is not a function of the planning process to introduce or require the vetting of users of holiday accommodation. As the leasing of short term accommodation does not come under the ambit of the standard residential tenancy leasing arrangement, there is no statutory requirement for guests to be vetted. It is considered that the matter of vetting guests essentially ties back to concerns of guests causing issues in respect to amenity. As outlined earlier, it is considered that the requirement and implementation of a robust management plan will mitigate the matter.
17. Concerns were raised in the submission that the proposal was already approved. Upon investigation, it would found that the proposal was listed on AirBnB already and has appeared to have been let out already. It is recommended that compliance be addressed separately. It is necessary to note, as clarified by the State Administrative Tribunal, approval of an application before Council does not preclude the City of Albany from pursuing the compliance matter.
18. The application, except for location is considered to be generally consistent with the City of Albany's Holiday Accommodation local planning policy. Further to this, it is considered that any potential amenity impacts will be mitigated by the proposed management measures and revised parking plan.

## GOVERNMENT & PUBLIC CONSULTATION

19. The application was advertised for public comment for a period of 21 days, with nearby landowners directly notified by letter.
20. One submission was received during advertising which raised concerns in respect to the proposal. The broad issues are discussed in paragraph 11-20, above and in the attached schedule of submissions.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Mail Out	26/9/2019 to 17/10/2019	1 Submission received	Yes

## STATUTORY IMPLICATIONS

21. A Holiday House is classified as a “D” use within the ‘Residential’ zone under *Local Planning Scheme No. 1*, meaning that the use is not permitted unless the Local Government has exercised its discretion by granting planning approval.
22. Voting requirement for this item is **SIMPLE MAJORITY**

## POLICY IMPLICATIONS

23. The proposal is subject to the City of Albany Holiday Accommodation Local Planning Policy.
24. The primary reason the matter has been referred to council for consideration is due to the position within this policy which states;

*“Where a neighbour objects to a proposal, the application is to be referred to the Council for deliberation and considered in view of the following:*

- a. *The proximity of the holiday accommodation to key tourism attractions such as the beach or town centre/activity centre (typically a 5 minute walk – 400m);*
  - b. *location within a street(s) which facilitates safe, efficient and pleasant walking, cycling and driving;*
  - c. *location compatible with Figure A below (the areas illustrated are within close proximity to the town centre and popular swimming beaches).”*
  - d. *A management plan designed to facilitate community concerns.*
25. In accordance with the policy, the applicant has also submitted a management plan which controls the usage of the property and places clear guidance for its use. Measures to protect amenity through the management of the site include;
    - Maximum number of guests will be six;
    - The phone numbers for managers will be distributed to surrounding property owners;
    - Control of parties being permitted that would conflict with residential amenity; and
    - A register of guests will be maintained.
  26. It is considered that the proposal meets the key matters of the Holiday Accommodation Local Planning Policy and is capable of approval subject to appropriate conditions.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation.</b> <i>The approval may generate unacceptable impacts on the amenity on the area.</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>The application and adherence of appropriate planning conditions will mitigate this risk.</i>
<b>Opportunity:</b> <i>Responds to market demand for holiday accommodation in a controlled fashion.</i>				

## FINANCIAL IMPLICATIONS

28. There are no financial implications directly relating to this item.

## LEGAL IMPLICATIONS

29. As per the appeal rights conferred by the *Planning and Development Act 2005*, the decision on the matter can be appealed to the State Administrative Tribunal.

## ENVIRONMENTAL CONSIDERATIONS

30. There are no environmental implications directly relating to this item.

## ALTERNATE OPTIONS

31. Council has the following alternate options in relation to this item, which are:

- To resolve to refuse the proposal subject to reasons; and
- To resolve to approve the proposal subject to additional or modified conditions.

## CONCLUSION

32. The proposal (Except for location) is considered to be consistent with the objectives of the zone and the broad requirements of the *City of Albany's Holiday Accommodation* local planning policy.
33. While located outside of the preferred area for holiday homes, it is considered that the proposal is capable of approval.
34. The matters raised in the public submission received during the advertising period have also been broadly addressed.
35. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme No.1;</i> 2. <i>Holiday Accommodation Local Planning Policy</i>
<b>File Number (Name of Ward)</b>	:	A172621 McKail WA 6330
<b>Previous Reference</b>	:	Nil

- 11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 12. MEETING CLOSED TO THE PUBLIC**
- 13. CLOSURE**