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# MINUTES

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**Ordinary Meeting of Council**

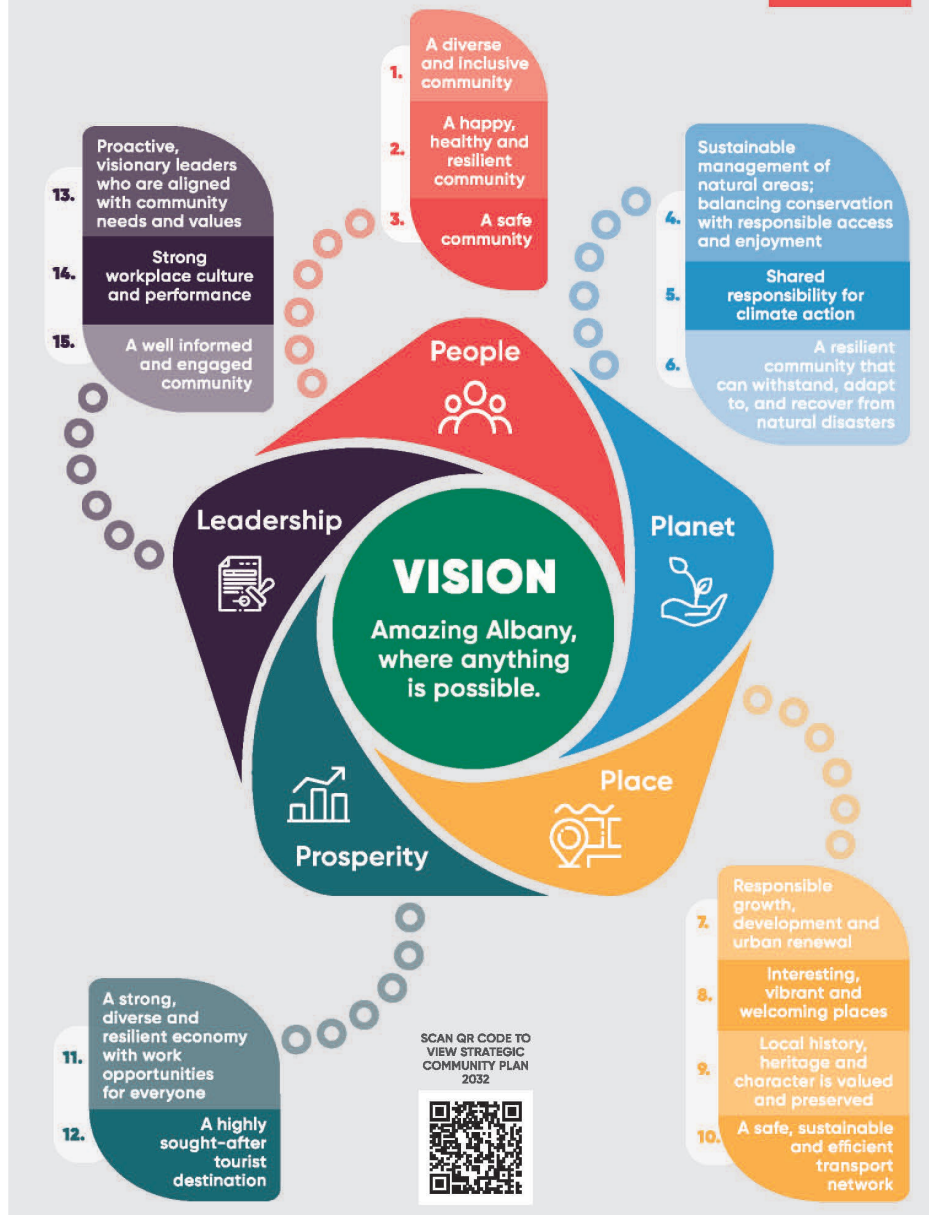
**Tuesday 13 December 2022**

6.00pm

**Council Chambers**



## STRATEGIC COMMUNITY PLAN 2032



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## 1. DECLARATION OF OPENING

The Mayor declared the meeting open at 6.00pm.

## 2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

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

*"We would like to acknowledge the Noongar people who are the Traditional Custodians of the Land."*

*We would also like to pay respect to Elders past, present and emerging".*

## 3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

Mayor

D Wellington

### **Councillors:**

Breaksea Ward

P Terry

Frederickstown Ward

G Stocks

Frederickstown Ward

M Traill

Kalgan Ward

T Brough

Kalgan Ward

M Benson-Lidholm JP

Vancouver Ward

J Shanhun

Vancouver Ward

D Baesjou

West Ward

S Smith

West Ward

Vacant

Yakamia Ward

C Thomson

Yakamia Ward

R Sutton

### **Staff:**

Chief Executive Officer

A Sharpe

Executive Director Corporate & Commercial Services

M Gilfellon

Executive Director Infrastructure, Development  
& Environment

P Camins

Executive Director Community Services

N Watson

Manager Planning and Building Services

J van der Mescht

Meeting Secretary

J Williamson

### **Apologies:**

Breaksea Ward

A Cruse (Apology)

#### 4. DISCLOSURES OF INTEREST

Name	Report Item Number	Nature of Interest
Councillor Traill	DIS329	<b>Financial.</b> The nature of the interest being that Councillor Traill is co-host of a short-term accommodation property in Bornholm since April 2022. Councillor Traill receives fees from the owner of the property who resides in Perth. Councillor Traill left the Chamber and was not present during the discussion and vote for this item.
Chief Executive Officer Mr Andrew Sharpe	CCS499	<b>Impartiality.</b> The nature of the interest being that Mr Sharpe is the Country Chief Executive Officer Representative for the WALGA Best Practice Governance Review Steering Committee. Mr Sharpe remained in the Chamber during the discussion and vote for this item.
Councillor Baesjou	DIS328	<b>Impartiality.</b> The nature of the interest being that Councillor Baesjou is the former business partner of the consultant representing the proponent. Councillor Baesjou remained in the Chamber and was present during the discussion and vote for this item.
Councillor Smith	CCS496	<b>Proximity.</b> The nature of the interest being that Councillor Smith is the joint owner of a property directly opposite the Albany Surf Lifesaving Club. Councillor Smith left the Chamber and was not present during the discussion and vote for this item.
Councillor Smith	DIS329	<b>Financial.</b> The nature of the interest being that Councillor is the joint owner of a short-term accommodation property. Councillor Smith left the Chamber and was not present during the discussion and vote for this item.
Councillor Terry	CCS496	<b>Financial.</b> The nature of the interest being that Councillor Terry's business leases premises from one of the speakers during Public Question Time who spoke in support of the Committee Recommendation for this item. Councillor Terry left the Chamber and was not present during the discussion and vote for this item.

## **5. REPORTS OF MEMBERS**

### **6.02pm Councillor Terry Summary of key points:**

Councillor Terry commented on the Christmas Lights for Cystic Fibrosis Fundraising Event.

Councillor Terry participated in the Christmas Pageant riding a Trishaw for Cycling Without Age. Councillor Terry said that the Albany Chapter of Cycling Without Age had recently welcomed a third Trishaw after a long journey to get here due to flooding in the Eastern States.

Councillor Terry will be representing the Mayor at the Spencer Park Primary School Graduation.

Councillor Terry said that he and Councillor Thomson had recently attended CEO Performance Review training in Perth, and due to the cancellation of their return flight to Albany had elected to drive home. Councillor Terry said that the trip was a long one due to the amount of roadworks being undertaken on Albany Highway, and hoped that they would be completed in time for travellers heading south over the summer holiday period.

### **6.06pm Councillor Traill Summary of key points:**

Councillor Traill commented on the Great Southern Sports Talent Association, an initiative of the Great Southern Recreation Advisory Group which is aimed at supporting and encouraging regional sportspersons.

Councillor Traill commented on Return to Uluru. After ninety years of his remains being stored in an Adelaide museum, a Pitjantjatjara man is finally being laid to rest at Uluru. Councillor Traill said that the Indigenous Voice to Parliament was important for constitutional recognition and involvement in decision making.

### **6.10pm Councillor Brough Summary of key points:**

Councillor Brough said that bush fire season was upon us, and it was now time to plan and prepare.

Councillor Brough's recommendation for Book of the Year was *The Cave and the Light: Plato Versus Aristotle and the Struggle for the Soul of Western Civilization* by Arthur Herman.

### **6.11pm Councillor Benson-Lidholm Summary of key points:**

Councillor Benson-Lidholm thanked staff for organising a workshop to discuss agricultural biosecurity. Councillor Benson-Lidholm also attended the South Stirlings Primary School Award night.

### **6.15pm Councillor Shanhun Summary of key points:**

Councillor Shanhun commented on the Christmas Lights for Cystic Fibrosis, and said that he hoped many more people would visit to enjoy the lights and make a donation to a worthy cause.

Councillor Shanhun attended the Thank the Volunteers event at the Albany Regional Library. Councillor Shanhun said that one volunteer had re-covered over 10,000 books, which was an amazing effort. Councillor Shanhun said that volunteers were vital to our community, and contributed to a feeling of wellbeing, safety and participation.

**6.17pm Councillor Baesjou**

**Summary of key points:**

Councillor Baesjou acknowledged the difficulties facing the community due to COVID. Councillor Baesjou attended the NAIDOC Ball representing the City of Albany, and presented the award for *Elder of the Year* to Mr Aden Eades.

**6.19pm Councillor Smith**

**Summary of key points:**

Councillor Smith attended the *Kinjarling Djinda Ngardak* (Albany Comes Alive Under the Stars) gala dinner highlighting local Great Southern Regional produce inspired by native ingredients, the culmination of a week long culinary camp for indigenous young people with mentoring by award winning and highly regarded chefs to develop a range of dishes.

Councillor Smith said that the event brings enormous benefits to the region and its participants, including cultural pride, a sense of belonging in the broader community, and a sense of achievement and confidence. It also showcased Aboriginal Art, Music, Dance and Fashion in a celebration of life and culture.

The event also focussed on product development using local and regional botanicals, and building industry-related skills to support career pathways in the tourism, hospitality, agriculture and business sectors.

**6.21pm Councillor Thomson**

**Summary of key points:**

Councillor Thomson commented on the Christmas Lights Cystic Fibrosis Fund Raising Event, which is sponsored by the City of Albany as a Regional Event.

Councillor Thomson attended a meeting with the Albany RSL Sub Branch members to discuss funding opportunities and the way forward for future Anzac Day Commemorations in Albany.

Councillor Thomson attended the Bicentenary Working Group meeting on 25 November 2022 as an observer, and participated in the tree planting activity on Yakamia Creek.

Councillor Thomson said that the Friends of Yakamia Bush had been encouraged to lodge a submission, making comment on the City's Draft Local Planning Scheme No. 2.

**6.24pm Councillor Sutton**

**Summary of key points:**

Councillor Sutton encouraged the community to think about priorities for the coming Festive Season, including compassion for less fortunate community members.

Councillor Sutton said that he would be very supportive of an audit in 2023 to identify City owned land that could be developed to provide emergency and crisis housing. Councillor Sutton said that partnering with a Not for Profit organisation such as Advance Housing could provide an opportunity to provide not just emergency and crisis housing, but also affordable housing for those on a low income.

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

## **7. PUBLIC QUESTION TIME**

### **6.27pm Dr Emily Fergie, 56 Karrakatta Road, Goode Beach**

#### **Summary of key points:**

Dr Fergie addressed Council in support of her application for holiday accommodation at 56 Karrakatta Road, Goode Beach. Dr Fergie said that she was working with a consultant to reduce the Bush Fire Attack Level for her property. Dr Fergie said that the risk of bush fire was a reality when living in an area such as Goode Beach, and individual risk mitigation should reflect the true intentions of the BAL rating system to protect property and personal safety rather than relying on a number.

Dr Fergie said that she was committed to working with the City to achieve a positive outcome.

### **6.29pm Ms Stacey Munnane, Great Southern Stays**

#### **Summary of key points:**

Ms Munnane addressed Council regarding DIS329: Draft Local Planning Policy 1.6: Short-Term Accommodation. Ms Munnane requested that additional consultation be conducted with short-term accommodation providers to gain further understanding of the industry.

### **6.33pm Mr Jon Doust, 132 Angove Road, Spencer Park**

#### **Summary of key points:**

Mr Doust addressed Council regarding tourism initiatives, and his tabled address is detailed at Appendix A.

### **6.36pm Ms Diana Caley, on behalf of Friends of Yakamia Forest**

#### **Summary of key points:**

Ms Caley read a bible verse for Council. Ms Caley also asked if it was possible for members of the public to interact in different ways with Council during Public Question Time.

The Mayor responded that members of the public may lodge information or questions with Council by email, letter or by telephone. There was also the opportunity for members of the public to address Council during Public Question Time by Zoom.

### **6.38pm Mr Nick Ayton, 42b Hare Street, Albany**

#### **Summary of key points:**

Mr Ayton addressed Council in support of the Committee Recommendation for Report Item DIS328: Modifications to Approved Local Development Plan No. 1-Lots 1 and 2 Frenchman Bay Road, Frenchman May (Tourist Development, Caravan Park (Glamping) and Restaurant).

### **6.41pm Mr Carl Richardson, Sleeman Avenue, Mira Mar-On behalf of the Albany Surf Life Saving Club**

#### **Summary of key points:**

Mr Richardson addressed Council in support of the Committee Recommendation for Report Item CCS496: Proposed Surrender of Lease and Replacement New Lease to Albany Surf Life Saving Club.

### **6.43pm Mr Rob Mason, on behalf of Albany Surf Life Saving Club**

#### **Summary of key points:**

Mr Mason addressed Council in support of the Committee Recommendation for Report Item CCS496: Proposed Surrender of Lease and Replacement New Lease to Albany Surf Life Saving Club.



**6.44pm Annabel Paulley, 38 Parker Street, Lockyer**  
**Summary of key points:**

Ms Paulley addressed Council to request rezoning of Lot 4743, 102 North Road, Yakamia. Ms Paulley's tabled address is detailed at Appendix A.

There being no further speakers, the Mayor declared Public Question Time closed at **6.46pm**.

In accordance with City of Albany Standing Orders Local Law 2014 (as amended):

*Clause 5) The Presiding Member may decide that a public question shall not be responded to where—*

- (a) the same or similar question was asked at a previous Meeting, a response was provided and the member of the public is directed to the minutes of the Meeting at which the response was provided;*
- (b) the member of the public asks a question or makes a statement that is offensive, unlawful or defamatory in nature, provided that the Presiding Member has taken reasonable steps to assist the member of the public to rephrase the question or statement in a manner that is not offensive, unlawful or defamatory.*

**8. APPLICATIONS FOR LEAVE OF ABSENCE**

**RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR THOMSON**

**SECONDED: COUNCILLOR SUTTON**

**THAT Councillor Brough be GRANTED Leave of Absence for the Special Council Meeting to be held on Tuesday 20 December 2022.**

**CARRIED 11-0**

**9. PETITIONS AND DEPUTATIONS Nil**

**10. CONFIRMATION OF MINUTES**

**RRESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SMITH**

**SECONDED: COUNCILLOR SHANHUN**

**THAT the minutes of the Ordinary Council Meeting held on 22 November 2022, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**CARRIED 11-0**

**11. PRESENTATIONS Nil**

**12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS Nil**

**CCS493: FINANCIAL ACTIVITY STATEMENT – OCTOBER 2022**

**Proponent / Owner** : City of Albany  
**Attachments** : Financial Activity Statement - October 2022  
**Report Prepared By** : Manager Finance (S van Nierop)  
**Authorising Officer:** : Executive Director Corporate & Commercial Services  
(M Gilfellon)

**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:
  - **Pillar:** Leadership.
  - **Outcome:** Strong workplace culture and performance

**IN BRIEF**

- Under the Local Government Financial Management Regulations, a local government is to prepare on a monthly basis a statement of financial activity that is presented to Council.
- The City of Albany's Statement of Financial Activity for the period ending 31 October 2022 has been prepared and is attached.
- In addition, the City provides Council with a monthly investment summary to ensure the investment portfolio complies with the City's Investment of Surplus Funds Policy.
- The financial information included within the financial activity statement for the period ended 31 October 2022 is preliminary and has not yet been audited.

**RECOMMENDATION**

**CCS493: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SUTTON**  
**SECONDED: COUNCILLOR TRAILL**

**THAT the Financial Activity Statement for the period ending 31 October 2022 be RECEIVED.**

**CARRIED 11-0**

**CCS493: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR SUTTON**  
**SECONDED: COUNCILLOR CRUSE**

**THAT the Authorising Officer Recommendation be ADOPTED.**

**CARRIED 9-0**

**CCS493: AUTHORISING OFFICER RECOMMENDATION**

**THAT the Financial Activity Statement for the period ending 31 October 2022 be RECEIVED.**

## **DISCUSSION**

2. 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.
3. In order to fulfil statutory reporting obligations, the Financial Activity Statement prepared provides a snapshot of the City's year to date financial performance. The report provides:
  - (a) Statement of Financial Activity by Nature or Type;
  - (b) Explanation of material variances to year to date budget;
  - (c) Net Current Funding Position;
  - (d) Investment Portfolio Snapshot;
  - (e) Receivables; and
  - (f) Capital Acquisitions.
4. Additionally, each year a local government is to adopt a percentage or value to be used in the Statement of Financial Activity for reporting material variances. Under Council item CCS457, Council approved that a variance between actual and budget-to-date of greater than \$100,000 is considered to be a material variance for reporting purposes in the Statement of Financial Activity for 2022/2023.
5. The Statement of Financial Activity may be subject to year-end adjustments and has not been audited by the appointed auditor.
6. It is noted 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:
  - 34(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, 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); and
    - (b) budget estimates to the end of the month to which the statement relates; and
    - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
    - (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.
  - 34(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; and
    - (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.
  - 34(3) The information in a statement of financial activity may be shown –
    - (a) according to nature and type classification; or
    - (b) by program; or
    - (c) by business unit.

- 34(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.
- 34(5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.

#### **POLICY IMPLICATIONS**

- 8. The City's 2022/23 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 2022 has been incurred in accordance with the 2022/23 proposed budget parameters.
- 11. Details of any budget variation in excess of \$100,000 (year to date) is outlined in the Statement of Financial Activity. There are no other known events, which may result in a material non-recoverable financial loss or financial loss arising from an uninsured event.

#### **LEGAL IMPLICATIONS**

- 12. Nil.

#### **ENVIRONMENTAL CONSIDERATIONS**

- 13. Nil.

#### **ALTERNATE OPTIONS**

- 14. Nil.

#### **CONCLUSION**

- 15. The Authorising Officer's recommendation be adopted.
- 16. It is requested that any questions regarding this report are submitted to the Executive Director Corporate & Commercial Services by 4pm of the day prior to the scheduled meeting time. All answers to submitted questions will be provided at the Committee meeting. This allows a detailed response to be given to the Committee in a timely manner.

<b>Consulted References</b>	:	<i>Local Government (Financial Management) Regulations 1996</i>
<b>File Number (Name of Ward)</b>	:	FM.FIR.7 - All Wards

**CCS494: LIST OF ACCOUNTS FOR PAYMENT – NOVEMBER 2022**

**Business Entity Name** : City of Albany  
**Attachments** : List of Accounts for Payment  
**Report Prepared By** : Manager Finance (S Van Nierop)  
**Authorising Officer:** : Executive Director Corporate and Commercial Services  
(M Gilfellon)

**STRATEGIC IMPLICATIONS**

- This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - Pillar/Priority:** Leadership.
  - Outcome:** Strong workplace culture and performance.

**IN BRIEF**

- 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.

**RECOMMENDATION**

**CCS494: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR BENSON-LIDHOLM**  
**SECONDED: COUNCILLOR SMITH**

**THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 November 2022 totalling \$7,998,055.22 be RECEIVED.**

**CARRIED 11-0**

**CCS494: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR BENSON-LIDHOLM**  
**SECONDED: COUNCILLOR BROUGH**

**THAT the Authorising Officer Recommendation be ADOPTED.**

**CARRIED 9-0**

**CCS494: AUTHORISING OFFICER RECOMMENDATION**

**THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 November 2022 totalling \$7,998,055.22 be RECEIVED.**

**DISCUSSION**

- The table below summarises the payments drawn from the municipal fund for the period ending 15 November 2022. Please refer to the Attachment to this report.

<b>Municipal Fund</b>	
Trust	\$0.00
Credit Cards	\$18,450.27
Payroll	\$1,682,525.31
Cheques	\$0.00
Electronic Funds Transfer	\$6,297,079.64
<b>TOTAL</b>	<b><u>\$7,998,055.22</u></b>

3. The table below summaries the total outstanding creditors as at 15 November 2022.

Current	\$556,798.29
30 Days	\$227,815.06
60 Days	\$23,462.26
90 Days	\$925.51
<b>TOTAL</b>	<b><u>\$809,001.12</u></b>
Cancelled Cheques	Nil

### STATUTORY IMPLICATIONS

4. 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.
5. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.
6. 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

7. Expenditure for the period to 15 November 2022 has been incurred in accordance with the 2022/2023 budget parameters.

### FINANCIAL IMPLICATIONS

8. Expenditure for the period to 15 November 2022 has been incurred in accordance with the 2022/2023 budget parameters.

### LEGAL IMPLICATIONS

9. Nil

### ENVIRONMENTAL CONSIDERATIONS

10. Nil

### ALTERNATE OPTIONS

11. Nil

### CONCLUSION

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

Consulted References	:	<i>Local Government (Financial Management) Regulations 1996</i>
File Number (Name of Ward)	:	FM.FIR.2 – All Wards

**CCS495: DELEGATED AUTHORITY REPORTS – 16 OCTOBER 2022 to 15 NOVEMBER 2022**

<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: Executed Document and Common Seal Report
<b>Report Prepared By</b>	: PA to the ED Corporate & Commercial Services (H Bell)
<b>Authorising Officer:</b>	: Chief Executive Officer (A Sharpe)

**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:
  - **Pillar:** Leadership.
  - **Outcome:** A well informed and engaged community.

**RECOMMENDATION**

**CCS495: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SHANHUN**  
**SECONDED: COUNCILLOR BROUGH**

**THAT the Delegated Authority Reports 16 October 2022 to 15 November 2022 be RECEIVED.**

**CARRIED 11-0**

**CCS495: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR SUTTON**  
**SECONDED: COUNCILLOR TRAILL**

**THAT the Authorising Officer Recommendation be ADOPTED.**

**CARRIED 9-0**

**CCS495: AUTHORISING OFFICER RECOMMENDATION**

**THAT the Delegated Authority Reports 16 October 2022 to 15 November 2022 be RECEIVED.**

**BACKGROUND**

2. In compliance with Section 9.49A of the *Local Government Act 1995* the attached report applies to the use of the Common Seal and the signing of documents under Council's Delegated Authority:
  - **Delegation: 006** – Sign Documents on Behalf of the City of Albany (Authority to Executive Deeds & Agreements and apply the Common Seal)
  - **Delegation: 009** – Provide Donations, Sponsorship, Subsidies & Authority to Apply for Grant Funding (Including the provision of sponsorship through the waiver of fees & charges)
  - **Delegation: 018** – Award Contracts (Supply of Equipment, Goods, Materials & Services)

## CCS496: PROPOSED SURRENDER OF LEASE AND REPLACEMENT NEW LEASE TO ALBANY SURF LIFE SAVING CLUB

<b>Land Description</b>	: Crown Reserve 14789, Lot 1474 on Deposited Plan 219850, the subject of Certificate of Title LR3111 Folio 83, 10 Flinders Parade, Middleton Beach
<b>Proponent</b>	: Albany Surf Life Saving Club Inc.
<b>Owner</b>	: Crown (City of Albany under Management Order)
<b>Report Prepared By</b>	: Team Leader Property & Leasing (T Catherall)
<b>Authorising Officer:</b>	: Executive Director Corporate & Commercial Services (M Gilfellon)

**6.49PM:** Councillor Terry left the Chamber after declaring a Financial Interest in this item. Councillor Smith left the Chamber after declaring a Proximity Interest in this item.

### STRATEGIC IMPLICATIONS

- This item relates to the following elements of the City of Albany's Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - Pillar:** People.
  - Outcomes:** A happy, healthy and resilient community.

### Maps and Diagrams:





**In Brief:**

- Council is requested to consider a surrender of lease and a replacement new lease to the Albany Surf Life Saving Club Inc. (ASLSC), to facilitate the proposed expansion and redevelopment to the ASLSC premises at Middleton Beach.
- At the Ordinary Council Meeting held on 13 July 2021, Council provided in-principle support for the project and received a further briefing on 16 August 2022 on the ASLSC redevelopment proposal.
- It is recommended that the proposed surrender and new lease be approved.

**RECOMMENDATION**

**CCS496: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR THOMSON**  
**SECONDED: COUNCILLOR SUTTON**

**THAT Council APPROVES the surrender of lease and replacement lease to Albany Surf Life Saving Club Inc. on Crown Reserve 14789, over surf lifesaving premises situated at 10 Flinders Parade, Middleton Beach subject to:**

- a) Lease Purpose being “Surf Life Saving Club Room and Associated Activities” in accordance with and limited by the Management Order over the Land.**
- b) The surrender of lease being effective only on the granting of a new lease.**
- c) New lease term being 21 years, commencing as soon as practicable.**
- d) New lease area being approximately 2,194m<sup>2</sup>, to be confirmed by survey.**
- e) Lease rent being equivalent to minimum land rate set by Council each year, currently \$1,120.00 plus GST per annum.**
- f) Lease including the City’s standard Coastal Hazard special condition.**
- g) Section 18 of the *Lands Administration Act 1997*, the Minister for Lands consent being obtained.**
- h) All costs associated with the ongoing management and operations of the lease area being payable by the tenant.**
- i) All costs associated with the preparation, execution and completion of the lease documentation being payable by the tenant.**
- j) Lease being consistent with Council Policy – Property Management (Leases and Licences)**

**CARRIED 9-0**

**CCS496: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR BENSON-LIDHOLM**  
**SECONDED: COUNCILLOR SUTTON**

**THAT the Authorising Officer Recommendation be ADOPTED.**

**CARRIED 8-0**

**CCS496: AUTHORISING OFFICER RECOMMENDATION**

THAT Council APPROVES the surrender of lease and replacement lease to Albany Surf Life Saving Club Inc. on Crown Reserve 14789, over surf lifesaving premises situated at 10 Flinders Parade, Middleton Beach subject to:

- a) Lease Purpose being “Surf Life Saving Club Room and Associated Activities” in accordance with and limited by the Management Order over the Land.
- b) The surrender of lease being effective only on the granting of a new lease.
- c) New lease term being 21 years, commencing as soon as practicable.
- d) New lease area being approximately 2,194m<sup>2</sup>, to be confirmed by survey.
- e) Lease rent being equivalent to minimum land rate set by Council each year, currently \$1,120.00 plus GST per annum.
- f) Lease including the City’s standard Coastal Hazard special condition.
- g) Section 18 of the Lands Administration Act 1997, the Minister for Lands consent being obtained.
- h) All costs associated with the ongoing management and operations of the lease area being payable by the tenant.
- i) All costs associated with the preparation, execution and completion of the lease documentation being payable by the tenant.
- j) Lease being consistent with Council Policy – Property Management (Leases and Licences)

**BACKGROUND**

2. Reserve 14789, Middleton Beach is a ‘C’ class reserve under a Management Order issued to the City of Albany with the power to lease or licence for the purpose of “Recreation” for a term not exceeding 21 years subject to the consent of the Minister for Lands.
3. The ASLSC was established in 1917 and has operated from the purpose-built premises at Middleton Beach under a formal lease agreement since 1994. Since this time, the club has upgraded and improved the facility in line with its expanding membership and activities.
4. The ASLSC premises received a significant upgrade in 2013 which included expansion of the ground floor and the construction of a second storey.
5. In response to growing membership and the infrastructure upgrades within the Middleton Beach Precinct, ASLSC undertook a review of its strategic vision to address a number of pressing challenges and opportunities affecting its future.
6. It was identified that expansion and redevelopment of the ASLSC facility would significantly improve the safety, efficiency and capacity of core service delivery areas and the general amenity of the premises for the ASLSC members and wider community.
7. At the Ordinary Council meeting on 13 July 2021, Council provided in-principle support for the expansion project including a maximum in-kind contribution of \$100,000 for project management and a budgeted financial contribution of \$300,000 for the works.
8. In May 2021, ASLSC endorsed a concept design for the expansion and redevelopment of the current premises prepared by local firm H+H Architects. Following an independent design review in consultation with the City and ASLSC a final plan has been agreed and forms part of Development Application P2220364 lodged in August 2022 and approved in November 2022.
9. The City has since received a formal request from the ASLSC to surrender their current lease in favour of entering into a new lease over an increased lease area to accommodate the proposed redevelopment.

## DISCUSSION

### Proposed redevelopment and lease area

10. The ASLSC redevelopment aims to provide the following outcomes:
  - A safer, more efficient and welcoming community facility;
  - Improved access to facilities;
  - Improved lifesaving and water safety operations; and
  - Increased community engagement through new training and education spaces.
11. In summary the redevelopment works include:
  - Extension of the surf and motorboat storage;
  - New centrally located patrol and first aid operational hub;
  - Additional storage areas;
  - New canteen area, club office and community room;
  - Extension of northern balcony to create a new meeting room;
  - New roof over southern balcony;
  - New entry statement awning; and
  - Facade upgrade.
12. If approved by Council the construction of the ASLSC redevelopment works is expected to commence in March 2023, towards the end of the surf club season, to minimise the impact on the club and wider community.
13. To facilitate the expansion and redevelopment works and to satisfy City requirements, a portion of the existing lease area is to be relinquished back to the City and will not be included in the new lease area (see map – Old Lease Area).
14. An additional area, not part of the current lease, (in excess, in size, of the relinquished portion) will form part of the lease area under the new lease (Additional Lease Area). This will provide an overall increase in the lease area of approximately 93m<sup>2</sup>.
15. It is proposed the surrender of lease will be effective only on the granting of a new lease.

### Middleton Beach Public Toilet Upgrades

16. Upgrades to the existing public toilets at the southern end of the ASLSC premises, not in the lease area, have been identified as part of the City's Assets Renewal program to improve access and inclusion, public amenity and safety.
17. Currently the public universal access toilet (UAT see map) will be located within the above-mentioned Additional Lease Area.
18. It is understood that the public toilet upgrade will include the addition of a new UAT. Any upgrade process will take some time and until it is completed the only public UAT in the vicinity of the ASLSC facility will be in the Additional Lease Area.
19. To address this matter and given that the existing UAT will be relocated at some stage it is proposed that it is a condition of the granting of the new lease to ASLSC (which will include the Additional Lease Area), that ASLSC grant the City a licence (at a peppercorn rate) to continue use of the UAT in the Additional Lease Area for the ongoing benefit of the general public.
20. The licence will stay in place until a new UAT (outside of the leased area) is constructed and operational. The City will be responsible for the maintenance and upkeep of the current public UAT during the term of the licence.
21. ASLSC have agreed to the above licence provision.

### Coastal Hazards

22. The Coastal Hazard Risk Management and Adaption Plan (CHRMAP) for the Emu Point to Middleton Beach Coastal area has noted the lease area is located within an area likely to be subject to coastal erosion and/or inundation over the next 100 years.
23. To mitigate the risk of erosion and act as a control measure, a buried sea wall has been constructed to assist in protecting this area of coastline. Further protective works including ongoing maintenance and beach nourishment are in place.
24. It is proposed that the City's standard special coastal hazard condition be included in the lease, acknowledging the CHRMAP and that ASLSC are aware of potential requirements and limitations on the lease area. Noting the CHRMAP was not in place prior to implementation of the previous lease.
25. Expanded rights of the City will be also included to allow the City to conduct works relating to coastal protection treatments.
26. Further indemnification clauses will be included in the lease to ensure the City and Minister for Lands are not liable for any loss or damage to ASLSC for any reason arising from coastal risks.

### New Lease Agreement

27. The table below summarises the essential terms of the proposed lease.

Item	Details
Tenant	Albany Surf Life Saving Club Inc
Land Description	Part of the land in Crown Reserve 14789 and portion of Lot 1474 on Deposited Plan 219850, the subject of Certificate of Title LR3111 Folio 83, Middleton Beach
Lease Area	Approx 2,194 m <sup>2</sup> subject to survey
Land Ownership	Crown (City of Albany under Management Order)
Permitted Use	Surf Life Saving Club Room and Associated Activities
Term of Lease	21 years from commencement date
Rent	\$1,120 plus GST per annum being the equivalent to minimum land rate set by Council each year and reviewed annually
Outgoings	Tenant responsible for all outgoings, including insurance
Utilities	Tenant responsible for all utilities
Special Conditions	<ul style="list-style-type: none"> <li>Standard coastal hazard provisions for foreshore leases</li> <li>Licence for ongoing public access to UAT</li> </ul>

28. ASLSC has agreed in-principle with the above terms, subject to Council and Minister for Lands approval.
29. The remaining terms of the lease will be developed in line with City Policy – Property Management (Leases and Licences).

### **GOVERNMENT & PUBLIC CONSULTATION**

30. Section 18 of the Land Administration Act 1997 provides that a person shall not assign, sell, transfer or otherwise deal with interests on Crown land without the prior approval in writing of the Minister for Lands.
31. The Department of Planning, Lands and Heritage has been consulted and provided in-principle consent. The Department will be further consulted and provided the final lease documentation to obtain Minister for Lands approval.
32. Section 3.58 of the Local Government Act 1995 (Act) prescribes the processes by which the City can dispose of property. A lease of a property is considered to be a disposal.
33. Clause 30 of the Local Government (Functions and General) Regulations 1996 defines those dispositions which are exempt from section 3.58 of the Act. This includes disposal to an organisation or body whose objects are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature.

34. On the above basis, the proposed lease is considered exempt from public notice requirements.
35. No general public consultation on the lease has occurred, as the discussions between the City and ASLSC were specific to the club.
36. Public consultation has been undertaken as part of the ASLSC Development Application P2220364 assessment process.

### STATUTORY IMPLICATIONS

37. Section 3.58 of the Local Government Act 1995 allows for the disposal of property, including leased/licensed land and buildings.
38. Section 18 of the Land Administration Act 1997 prescribes the processes by which the City can dispose of land. For the purposes of the section, a lease of property is considered to be a disposal.

### POLICY IMPLICATIONS

39. The City's Property Management (Leases and Licences) Policy aims to support the equitable access, and the efficient and effective management of City owned and managed properties in line with statutory procedures.
40. The recommendation is consistent with the Policy.

### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation:</b> Surrender and new Lease not approved	Unlikely	Moderate	Medium	Seek to negotiate terms to Council satisfaction
<b>Reputation:</b> Surrender and new lease not approved – facility improvements not undertaken	Unlikely	Moderate	Medium	Seek to negotiate terms to Council satisfaction
<b>Reputation:</b> Surrender and new lease not approved – redevelopment funding at risk	Unlikely	Severe	High	Seek to negotiate terms to Council satisfaction
<b>Opportunity:</b> Improve premises and lifesaving activities at Middleton Beach				
<b>Opportunity:</b> This lease supports the City's Strategic Community Plan 2032 objective to improve access to sport, recreational and fitness facilities and programs.				

### FINANCIAL IMPLICATIONS

42. All costs associated with the development and finalisation of the surrender of lease and new lease documentation will be met by ASLSC.

### LEGAL IMPLICATIONS

43. The lease documentation will be prepared by City's lawyers with enforceable terms and conditions.

### ENVIRONMENTAL CONSIDERATIONS

44. The ASLSC lease area is located within the Coastal Hazard Risk Management Plan (CHRMAP) area for Emu Point to Middleton Beach. As such the lease area is likely to be subject to coastal erosion and / or inundation over the next 100 years.
45. The new lease will include coastal hazard provisions to ensure that the tenant acknowledges and accepts the potential impact of coastal erosion and/or inundation, sea level rises and other coastal processes.

46. Further indemnification clauses will be included to ensure that the City and Minister for Lands will not be liable for any loss or damage, or liability to any third parties as a result of erosion or the coastal location of the site and that the City has rights to conduct works relating to coastal protection treatments.

### ALTERNATE OPTIONS

47. Council provided in principle support for the expansion and redevelopment project at Ordinary Council meeting on 13 July 2021.
48. Council may:
- Approve the surrender and new replacement lease request; or
  - Support some elements of the surrender and new lease although not in its entirety; or
  - Not agree to the proposed surrender and new lease request.
49. Should Council not agree to the surrender and new lease, the existing lease will remain in place until 30 April 2031. The proposed redevelopment may not progress with funding opportunities put at risk.

### CONCLUSION

50. The ASLSC is proposing to undertake expansion and redevelopment works to the premises in Middleton Beach, which will require an increase in existing lease area of approximately 93m<sup>2</sup>.
51. In July 2021 Council supported the ASLSC project and committed in-kind and financial support.
52. The redevelopment aims to improve the safety, efficiency and capacity of ASLSC service delivery areas and the general amenity of the premises for the ASLSC members and wider community.
53. ASLSC has requested a surrender of the existing lease and a replacement new 21-year lease to facilitate the redevelopment.
54. The proposed lease aligns with the City's Strategic Community plan 2032 objective to improve access to sport, recreation and fitness facilities and programs.
55. It is recommended that the proposed surrender and replacement new lease be approved.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• Property Management (Lease and Licences) Policy</li> <li>• <i>Local Government Act 1995</i></li> <li>• <i>Land Administration Act 1997</i></li> </ul>
<b>File Number (Name of Ward)</b>	:	PRO040, A90251 (Frederickstown Ward)
<b>Previous Reference</b>	:	OCM 16/09/2008 Item 13.5 OCM 21/07/2009 Item 13.1.2 OCM 21/08/2012 Item 4.6 OCM 13/07/2021 Item CCS366

**6.53PM:** Councillor Smith and Councillor Terry returned to the Chamber. Councillor Smith and Councillor Terry were not present during the discussion and vote for this item.

## **CCS497: CINEFESTOZ 2023 – 2025 TRIENNIAL PARTNERSHIP AGREEMENT**

<b>Business Entity Name</b>	: CinefestOz Film Festival
<b>Attachments</b>	: CinefestOZ Albany Strategic Business Plan 2023 – 2025 CinefestOz Letter of Request CinefestOZ Letters of Support for Triennial Partnership request
<b>Report Prepared By</b>	: Manager Community Relations (L Paterson)
<b>Authorising Officer:</b>	: Executive Director Community Services (N Watson)

### **CONFIDENTIAL REPORT**

*This report was considered as confidential in accordance with section 5.23(2)(c) of the Local Government Act 1995, being: (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.*

#### **CCS497: RESOLUTION VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR TRAILL  
SECONDED: COUNCILLOR STOCKS**

**THAT Council:**

- 1. ACCEPT CinefestOZ's triennial partnership proposal for an Albany Film Festival from 2023 to 2025;**
- 2. AUTHORISE the Chief Executive Officer to enter into an agreement with CinefestOz to provide funding of \$50,000 per year for the Albany Film Festival, commencing in 2022-2023 and concluding in 2024-2025;**
- 3. REQUEST CinefestOZ as a condition of the agreement to submit a comprehensive acquittal at the conclusion of each festival to monitor the success of the partnership and return on investment of the City's funding; and**
- 4. NOTE the existing allocation of \$50,000 in the 2022-2023 Budget and in the City of Albany's Long Term Financial Plan for the purpose of supporting an Albany Film Festival event.**

**CARRIED 11-0  
ABSOLUTE MAJORITY**

#### **CCS497: COMMITTEE RECOMMENDATION**

**MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR TRAILL**

**THAT the Authorising Officer Recommendation be ADOPTED.**

**CARRIED 9-0**

#### **CCS497: AUTHORISING OFFICER RECOMMENDATION**

**THAT Council:**

- 1. ACCEPT CinefestOZ's triennial partnership proposal for an Albany Film Festival from 2023 to 2025;**
- 2. AUTHORISE the Chief Executive Officer to enter into an agreement with CinefestOz to provide funding of \$50,000 per year for the Albany Film Festival, commencing in 2022-2023 and concluding in 2024-2025;**
- 3. REQUEST CinefestOZ as a condition of the agreement to submit a comprehensive acquittal at the conclusion of each festival to monitor the success of the partnership and return on investment of the City's funding; and**
- 4. NOTE the existing allocation of \$50,000 in the 2022-2023 Budget and in the City of Albany's Long Term Financial Plan for the purpose of supporting an Albany Film Festival event.**

**CCS498: COUNCIL AND COMMITTEE MEETING SCHEDULE 2023**

**Attachments** : Proposed Meeting Schedule 2023  
**Report Prepared By** : Senior Team Leader (J Williamson)  
**Authorising Officer:** : Chief Executive Officer (A Sharpe)

**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:
- **Pillar:** Leadership.
  - **Outcome:** A well-informed and engaged community.

**In Brief:**

- Council is requested to adopt the proposed Ordinary Council Meeting and Committee Meeting Schedule for 2023, in accordance with the *Local Government Act 1995* and the associated Regulations.

**RECOMMENDATION****CCS498: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SUTTON**  
**SECONDED: COUNCILLOR BROUGH**

**THAT Council, for the purpose of giving Public Notice:**

1. **APPROVE** the following Committee Meeting Schedule for 2023:

Community & Corporate Services Committee	Development & Infrastructure Services Committee
<i>No meeting scheduled for January 2023</i>	
Tuesday 14 February 2023	Wednesday 15 February 2023
Tuesday 14 March 2023	Wednesday 15 March 2023
Tuesday 11 April 2023	Wednesday 12 April 2023
Tuesday 09 May 2023	Wednesday 10 May 2023
Tuesday 13 June 2023	Wednesday 14 June 2023
Tuesday 11 July 2023	Wednesday 12 July 2023
Tuesday 08 August 2023	Wednesday 09 August 2023
Tuesday 12 September 2023	Wednesday 13 September 2023
Tuesday 10 October 2023	Wednesday 11 October 2023
Tuesday 14 November 2023	Wednesday 15 November 2023
Tuesday 05 December 2023	Wednesday 06 December 2023

2. **APPROVE** the proposed Ordinary Council Meeting Schedule for 2023:

- Tuesday 28 February 2023
- Tuesday 28 March 2023
- Wednesday 26 April 2023 (Anzac Day is held on 25 April 2023)
- Tuesday 23 May 2023
- Tuesday 27 June 2023
- Tuesday 25 July 2023
- Tuesday 22 August 2023
- Tuesday 26 September 2023
- Tuesday 31 October 2023 (Ordinary Local Government Election 21 October 2023)
- Tuesday 28 November 2023
- Tuesday 19 December 2023

**CARRIED 11-0**



## CCS498: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON  
SECONDED: COUNCILLOR SHANHUN

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 9-0

## CCS498: AUTHORISING OFFICER RECOMMENDATION

THAT Council, for the purpose of giving Public Notice:

1. APPROVE the following Committee Meeting Schedule for 2023:

Community & Corporate Services Committee	Development & Infrastructure Services Committee
<i>No meeting scheduled for January 2023</i>	
Tuesday 14 February 2023	Wednesday 15 February 2023
Tuesday 14 March 2023	Wednesday 15 March 2023
Tuesday 11 April 2023	Wednesday 12 April 2023
Tuesday 09 May 2023	Wednesday 10 May 2023
Tuesday 13 June 2023	Wednesday 14 June 2023
Tuesday 11 July 2023	Wednesday 12 July 2023
Tuesday 08 August 2023	Wednesday 09 August 2023
Tuesday 12 September 2023	Wednesday 13 September 2023
Tuesday 10 October 2023	Wednesday 11 October 2023
Tuesday 14 November 2023	Wednesday 15 November 2023
Tuesday 05 December 2023	Wednesday 06 December 2023

2. APPROVE the proposed Ordinary Council Meeting Schedule for 2023:

- Tuesday 28 February 2023
- Tuesday 28 March 2023
- Wednesday 26 April 2023 (Anzac Day is held on 25 April 2023)
- Tuesday 23 May 2023
- Tuesday 27 June 2023
- Tuesday 25 July 2023
- Tuesday 22 August 2023
- Tuesday 26 September 2023
- Tuesday 31 October 2023 (Ordinary Local Government Election 21 October 2023)
- Tuesday 28 November 2023
- Tuesday 19 December 2023

**BACKGROUND**

2. In accordance with the *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*, local public notice must be given at least once per year detailing when Council and Committee meetings open to the public are to be held.
3. Ordinary Council Meetings are held monthly, except January which has no scheduled meetings.

## DISCUSSION

4. Meetings of Council which are open to the public commence at 6.00pm in order to facilitate attendance by working members of the public and Councillors.
5. Council may consider this an appropriate opportunity to review the frequency and start time of meetings.
6. Council may also wish to review the distribution date of agendas for Council and Committee meetings. Currently, the agenda for Ordinary Council Meetings is distributed on the third Tuesday of each month (except January when there are no scheduled meetings).

## GOVERNMENT & PUBLIC CONSULTATION

7. Previous feedback from community members indicated that 6.00pm was the preferred start time for Council and Council Committee meetings as it enabled attendance by members of the public.
8. Council may choose to engage with the community regarding start times of meetings to gauge whether there is a significant desire to change meeting times.
9. In addition to the meeting schedule being published on the City's website, a public notice will be placed in the local newspaper for a period of two weeks.

## STATUTORY IMPLICATIONS

10. It is a requirement for Council to give Local Public Notice at least once per year of the time, date and place for Council and Committee meetings which are open to the public are to be held.
11. Regulation 12 of the *Local Government (Administration) Regulations 1996*, states:

### **12. Publication of Meeting details (Act s.5.25(1)(g):**

(1) In this regulation –

**Meeting details**, for a meeting, means the date and time when, and the place where, the meeting is to be held.

(2) The CEO must publish on the local government's official website the meeting details for the following meetings before the beginning of the year in which the meetings are to be held -

(a) Ordinary council meetings;

(b) Committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public.

(3) Any change to the meeting details for a meeting referred to in subregulation (2) must be published on the local government's official website as soon as practicable after the change is made.

## POLICY IMPLICATIONS

12. N/A

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Legal and Compliance.</b> <b>Risk:</b> Local Public Notice is not given of the time, date and place of Ordinary Council Meetings and Council Committee Meetings.	Unlikely	Moderate	Medium	Staff work with Council to set the forecast meeting schedule and provide public notice prior to January 2023.
<b>Opportunity:</b> Council has the opportunity to review the frequency of meetings and meeting start times.				

**FINANCIAL IMPLICATIONS**

14. A budget line exists for the cost of Local Public Notice advertising in the local newspaper.

**LEGAL IMPLICATIONS**

15. The meeting schedule for 2023 must be published on the City's website to ensure legislative compliance as detailed in the Statutory Implications section of this report.

**ENVIRONMENTAL CONSIDERATIONS**

16. There are no direct environmental considerations related to this report.

**ALTERNATE OPTIONS**

17. Council may consider alternate days, dates, committee meeting order, meeting places and commencement times of meetings.

**CONCLUSION**

18. It is recommended that the proposed meeting schedule for 2023 is approved.

<b>Consulted References</b>	:	<i>Local Government Act 1995</i> <i>Local Government (Administration) Regulations 1996</i>
<b>File Number (Name of Ward)</b>	:	All Wards
<b>Previous Reference</b>	:	OCM 15/12/2020 Resolution CCS315 OCM 14/12/2021 Resolution CCS399

**CCS499: PROPOSED WALGA GOVERNANCE MODEL**

<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: WALGA Consultation Paper WALGA Background Paper
<b>Report Prepared By</b>	: Manager Governance & Risk (S Jamieson)
<b>Authorising Officer:</b>	: Chief Executive Officer (A Sharpe)

The Chief Executive Officer, Mr Andrew Sharpe, declared an Impartiality Interest in this item. Mr Sharpe remained in the Chamber and was present during the discussion and vote for this item.

**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:
  - **Pillar:** Leadership.
  - **Outcomes:** A well-informed and engaged community.

**In Brief:**

- The City of Albany is a member local government of WALGA.
- Council has been requested by WALGA to rank proposed governance models.
- A preferred governance model option has been presented for consideration.

**RECOMMENDATION**

**CCS499: RESOLUTION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR THOMSON  
SECONDED: COUNCILLOR TRAILL**

**THAT the Proposed Governance Models be ranked as follows, and the City advise WALGA accordingly by submission:**

<b>Option</b>	<b>Ranking:</b>
<b>Option 1 – Two tier model, existing zones</b>	<b>4</b>
<b>Option 2 – Board, Regional Bodies</b>	<b>2</b>
<b>Option 3 – Board, Amalgamated Zones</b>	<b>3</b>
<b>Option 4 – Member elected board, Regional Groups</b>	<b>1</b>
<b>Option 5 – Current Model</b>	<b>5</b>

**CARRIED 11-0**

**CCS499: COMMITTEE RECOMMENDATION (AMENDMENT BY MAYOR WELLINGTON)**

MOVED: MAYOR WELLINGTON

SECONDED: COUNCILLOR BENSON-LIDHOLM

THAT the Proposed Governance Models be ranked as follows, and the City advise WALGA accordingly by submission:

Option	Ranking:
Option 1 – Two tier model, existing zones	4
Option 2 – Board, Regional Bodies	2
Option 3 – Board, Amalgamated Zones	3
Option 4 – Member elected board, Regional Groups	1
Option 5 – Current Model	5

CARRIED 9-0

**CCS499: AMENDMENT BY MAYOR WELLINGTON**

MOVED: MAYOR WELLINGTON

SECONDED: COUNCILLOR BENSON-LIDHOLM

THAT the Proposed Governance Models be ranked as follows, and the City advise WALGA accordingly by submission:

Option	Ranking:
Option 1 – Two tier model, existing zones	4
Option 2 – Board, Regional Bodies	2
Option 3 – Board, Amalgamated Zones	3
Option 4 – Member elected board, Regional Groups	1
Option 5 – Current Model	5

CARRIED 9-0

Mayor Wellington moved an Amendment to the Authorising Officer Recommendation.

**CCS499: AUTHORISING OFFICER RECOMMENDATION**

THAT Option 4 is the preferred proposed governance model option for the City of Albany.

Option	Ranking:
Option 1 – Two tier model, existing zones	
Option 2 – Board, Regional Bodies	
Option 3 – Board, Amalgamated Zones	
Option 4 – Member elected board, Regional Groups	1
Option 5 – Current Model	

## BACKGROUND

2. WALGA was formed on 6 December 2001 to provide a representative and united voice for Local Government in WA.
3. In 2021, WALGA's State Council determined to undertake a Best Practice Governance Review (BPGR), and established a Steering Committee, to oversee the project.
4. On 22 August 2022, at a Special Council meeting held by the State Council, the BPGR guiding principles were endorsed.
5. Council has been requested to rank the proposed governance models presented in the consultation paper.

## DISCUSSION

6. Governance Reviews allow organisations to re-examine their membership structure, constitution, board role, board composition, governance approach and policies.
7. The BPGR provides an opportunity for members of the association to review and reshape the governance model to ensure that the association:
  - a. Delivers strong, clear, focuses and consistent policy positions on strategic matter of importance to Local Government in WA.
  - b. Drives advocacy outcomes and impact on behalf of Local Government in WA and the communities they serve.
  - c. Embeds agility and responsiveness, to ensure members concerns are heard, respected in a timely, efficient, and effective manner.
8. Over several years, from a range of sources, WALGA's current governance model has received negative feedback on the current governance model.
9. Criticism has been levelled by both metropolitan and regional members.
10. The feedback, is summarised as follows:
  - a. Structure – WALGA's governance structure is seen by members and stakeholders as creating roadblocks, hindering decision-making, and holding WALGA back.
  - b. Responsiveness – there is a perception among members and stakeholders that WALGA's governance model is slow and bureaucratic in an environment that requires agility.
  - c. Prioritisation and focus – members and stakeholders acknowledge the challenges of developing unified Local Government policy positions and advocacy priorities given the diversity of Local Government sector interests.
  - d. Transparency and accountability – feedback from members and stakeholders suggests that WALGA should be more transparent about its decision-making processes.
  - e. Zones – Feedback from members and stakeholders in relation to Zones and Zone meetings is mixed. A proportion of WALGA's membership believes that Zones are not as representative, strategic nor effective as they potentially could be.
11. Therefore, member local governments have been asked to consider the attached paper and the proposed governance models presented.
12. WALGA has requested that Council rank and endorse the proposed governance models accordingly.
13. Submissions to WALGA are sought by 23 December 2022.

## Principles

14. The proposed governance models are guided by the principles of: Representation, Responsive and Results Orientated.
15. The principles were endorsed at the WALGA's Annual General Meeting held on the 3 October 2022.

## Governance model options:

16. Five options, including the Current Model are presented for ranking:
  - a. Option 1 – Two tier model, existing Zones.
  - b. Option 2 – Board, Regional Bodies.
  - c. Option 3 – Board, Amalgamated Zones.
  - d. Option 4 – Member elected Board, Regional Groups.
  - e. Option 5 – Current Model.
17. Snapshot of proposed models and alignment to the principles follows:

Option	Governance Body Structure		Officer Comment
<b>Option 1 –</b> Two tier model, existing Zones	<p><b>Board:</b> 11 members 8 representative members elected from and by the Policy Council. _4 Metro, _4 Country).</p> <p>The Board then elect the President from the representative members.</p> <p>The Board will appoint up to 3 independent, skills or constituency directors.</p>	<p><b>Policy Council:</b> 24 members plus President Members elected by and from the Zones _12 from 5 Metro Zones, _12 from 12 Country Zones)</p> <p><b>Zone:</b> _5 Metro, _12 Country</p>	Refer to note *, RE: Term: Constituency directors.
<b>Option 2 –</b> Board, Regional Bodies	<p><b>Board:</b> 11 members 8 representative members elected from and by the Regional Bodies. _4 Metro, _4 Country)</p> <p>The Board then elect the President from the representative members.</p> <p>The Board will appoint up to 3 independent, skills or constituency directors.</p>	<p><b>Regional Bodies:</b> _Metro: North, South, East and Central _Country: Mining Pastoral, Agricultural, Peel/ South West /Great Southern, Regional Capitals <i>Note: Local Governments can nominate their preferred regional body, with membership of the regional bodies to be determined by the board.</i></p> <p><b>Policy Teams/ Forum / Committees:</b> Membership drawn from the Board and Regional Bodies with some independent members.</p>	<p>References membership being drawn from regional bodies similar to the Regional Capitals Alliance</p> <p>Refer to note *, RE: Term: Constituency directors.</p>

Option	Governance Body Structure		Officer Comment
<b>Option 3 –</b> Board, Amalgamated Zones	<p><b>Board:</b> 15 members, 12 elected from the Zones _6 from Metro/Peel, _6 from Country)</p> <p>President to be elected by the Board.</p> <p>The Board will appoint up to 2 independent, skills or constituency directors.</p>	<p><b>Zones:</b> Metro/Peel: • Central Metropolitan • East Metropolitan • North Metropolitan • South Metropolitan • South East Metropolitan • Peel <b>Country*:</b> • Wheatbelt South • Wheatbelt North • Mid West / Murchison / Gascoyne • Pilbara / Kimberley • South West / Great Southern • Goldfields / Esperance <i>*indicative, re-drawing required.</i> <b>Policy Teams/ Forum / Committees:</b> Membership drawn from Board with some independent members.</p>	Refer to note *, RE: Term: Constituency directors.
<b>Option 4 –</b> Member Elected Board, Regional Groups	<p><b>Board:</b> 11 members _8 representative members elected via direct election, with each member Local Government to vote: _4 elected by and from Metropolitan Local Governments, _4 elected by and from Country Local Governments)</p> <p>_President elected by the Board from among the representative members.</p> <p>_The Board will appoint up to 3 independent, skills or constituency* directors</p>	<p><b>Policy Teams/ Forum / Committees:</b> Membership drawn from Board with some independent members. <b>Regional Groups:</b> Determined by members to suit needs e.g., Regional Capitals, GAPP, VROCs, CEO Group, existing Zones.</p>	References Regional Capitals as an example  Refer to note *, RE: Term: Constituency directors.
<b>Option 5 –</b> Current Model	<p>State Council: 24 members plus the President.</p> <p>Members elected by and from the Zones. _12 from 5 Metropolitan Zones, _12 from 12 Country Zones)</p>	<p><b>Policy Teams/ Forum / Committees:</b> Membership drawn from State Council with some independent members.</p>	
<p><b>Note:</b></p> <ul style="list-style-type: none"> <li>Highlighted text indicates reference to regional / country / regional capitals.</li> <li>*Constituency director, noting this term has not been defined in the consultation paper, it is the understanding of the report author that, the term means: A representative board member (i.e. director) acts in a dual capacity with duties to both the association (i.e. WALGA / corporation) and their sponsors (i.e. designated members).</li> <li>The constituency director: <ul style="list-style-type: none"> <li>Is expected to act as an intermediary between the governance body as the appointed and recognised sponsor of the designated membership group.</li> <li>Is a representative of the sponsorship membership group.</li> <li>May act freely on behalf of the sponsor unless the action directly injures the association or is clearly unfair to a minority of the sponsors.</li> </ul> </li> </ul>			



## GOVERNMENT & PUBLIC CONSULTATION

18. The City of Albany's CEO, Mr Andrew Sharpe, was appointed as the Country Chief Executive Officer representative.
19. The full membership of the Steering Committee is detailed in the attached discussion paper.

## STATUTORY IMPLICATIONS

20. There are no direct statutory implications related to this report.
21. Legislative reforms could also impact WALGA's governance arrangements.
22. The Minister for Local Government's proposed reforms to the Local Government Act 1995 recommend:
  - a. Removing WALGA from being constituted under the Local Government Act.
  - b. Secondly, the Review of WA's Industrial Relations Act 1979 provides an opportunity for WALGA to be constituted as a registered employer organisation, which would enable WALGA to make applications in its own right on behalf of the sector.

## POLICY IMPLICATIONS

23. There are no direct policy implications to this report, however it should be noted that WALGA is not a government department or agency.
24. The City of Albany, is a member local government that utilises the following member services:
  - a. advice on employee relations,
  - b. governance, procurement,
  - c. human resources,
  - d. training and development programs,
  - e. a preferred supplier program, and
  - f. Local Government Insurance Scheme (LGIS) indemnity services.

## RISK IDENTIFICATION & MITIGATION

25. The risk identification and categorisations rely on the City's Enterprise Risk and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation:</b> <b>Risk:</b> <i>There is a risk that no engagement will result in a missed opportunity.</i>	Possible	Moderate	Medium	Acknowledge: <ul style="list-style-type: none"> <li>That <u>consultation</u> is limited to providing membership feedback on the proposed governance models and there is no "mandatory" obligation to engage.</li> <li>What has been proposed is the sharing of information to assist the State Council's decision making.</li> </ul>
<b>Opportunity:</b> <i>To provide feedback from a regional "country" local government and select an appropriate governance model that meets "our" community's needs. .</i>				

## FINANCIAL IMPLICATIONS

26. There are no direct financial implications related to this report.

### LEGAL IMPLICATIONS

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

### ENVIRONMENTAL CONSIDERATIONS

28. Not applicable.

### ALTERNATE OPTIONS

29. A recommended preferred option has been presented for consideration.

30. It is considered appropriate, that Council rank the remaining and/or all the proposed options by preferential ballot.

### CONCLUSION

31. It is recommended that that Council reviews the consultation paper and rank the proposed governance models.

32. Noting the City of Albany's involvement in the Regional Cities Alliance, Option 2 has been recommended as the preferred option.

<b>Consulted References</b>	:	<ul style="list-style-type: none"><li>• WALGA – Best Practice Governance Review – Consultation Paper – Model Options</li><li>• WALGA – Annual General Meeting (AGM) – Agenda – October 2022.</li><li>• WALGA – Best Practice Governance Review – Background Paper</li></ul>
<b>File Number (Name of Ward)</b>	:	GR.STL.118 (All Wards)
<b>Previous Reference</b>	:	<ul style="list-style-type: none"><li>• <a href="#">City of Albany Reform Submission</a> – 8 December 2021.</li></ul>

**CCS500: FINANCIAL ACTIVITY STATEMENT – NOVEMBER 2022**

<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: Financial Activity Statement - November 2022
<b>Report Prepared By</b>	: Manager Finance (S van Nierop)
<b>Authorising Officer:</b>	: Executive Director Corporate & Commercial Services (M Gilfellow)

**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:
  - **Pillar:** Leadership.
  - **Outcome:** Strong workplace culture and performance

**IN BRIEF**

- Under the Local Government Financial Management Regulations, a local government is to prepare on a monthly basis a statement of financial activity that is presented to Council.
- The City of Albany's Statement of Financial Activity for the period ending 30 November 2022 has been prepared and is attached.
- In addition, the City provides Council with a monthly investment summary to ensure the investment portfolio complies with the City's Investment of Surplus Funds Policy.
- The financial information included within the financial activity statement for the period ended 30 November 2022 is preliminary and has not yet been audited.

**RECOMMENDATION**

**CCS500: RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SUTTON**

**SECONDED: COUNCILLOR SMITH**

**THAT the Financial Activity Statement for the period ending 30 November 2022 be RECEIVED.**

**CARRIED 11-0**

**DISCUSSION**

2. 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.
3. In order to fulfil statutory reporting obligations, the Financial Activity Statement prepared provides a snapshot of the City's year to date financial performance. The report provides:
  - (a) Statement of Financial Activity by Nature or Type;
  - (b) Explanation of material variances to year to date budget;
  - (c) Net Current Funding Position;
  - (d) Investment Portfolio Snapshot;
  - (e) Receivables; and
  - (f) Capital Acquisitions.

4. Additionally, each year a local government is to adopt a percentage or value to be used in the Statement of Financial Activity for reporting material variances. Under Council item CCS457, Council approved that a variance between actual and budget-to-date of greater than \$100,000 is considered to be a material variance for reporting purposes in the Statement of Financial Activity for 2022/2023.
5. The Statement of Financial Activity may be subject to year-end adjustments and has not been audited by the appointed auditor.
6. It is noted 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:
  - 34(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, 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); and
    - (b) budget estimates to the end of the month to which the statement relates; and
    - (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates; and
    - (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.
  - 34(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; and
    - (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.
  - 34(3) The information in a statement of financial activity may be shown –
    - (a) according to nature and type classification; or
    - (b) by program; or
    - (c) by business unit.
  - 34(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.
  - 34(5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances

**POLICY IMPLICATIONS**

8. The City's 2022/23 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 30 November 2022 has been incurred in accordance with the 2022/23 proposed budget parameters.
11. Details of any budget variation in excess of \$100,000 (year to date) is outlined in the Statement of Financial Activity. There are no other known events, which may result in a material non-recoverable financial loss or financial loss arising from an uninsured event.

**LEGAL IMPLICATIONS**

12. Nil.

**ENVIRONMENTAL CONSIDERATIONS**

13. Nil.

**ALTERNATE OPTIONS**

14. Nil.

**CONCLUSION**

15. The Authorising Officer's recommendation be adopted
16. It is requested that any questions on specific payments are submitted to the Executive Director Corporate & Commercial Services by 4pm of the day prior to the scheduled meeting time. All answers to submitted questions will be provided at the Committee meeting. This allows a detailed response to be given to the Committee in a timely manner.

<b>Consulted References</b>	:	<i>Local Government (Financial Management) Regulations 1996</i>
<b>File Number (Name of Ward)</b>	:	FM.FIR.7 - All Wards

**DIS328: MODIFICATIONS TO APPROVED LOCAL DEVELOPMENT PLAN NO. 1 – LOTS 1 AND 2 FRENCHMAN BAY ROAD, FRENCHMAN BAY (TOURIST DEVELOPMENT, CARAVAN PARK (GLAMPING) AND RESTAURANT)**

<b>Land Description</b>	: Lots 1 & 2 Frenchman Bay Road WA 6330
<b>Proponent / Owner</b>	: Ayton Planning / Frenchman Bay Albany Pty Ltd
<b>Business Entity Name</b>	: Frenchman Bay Albany Pty Ltd
<b>Attachments</b>	: 1. Proposed modified Local Development Plan (LDP1) and associated provisions for Lots 1 And 2 Frenchman Bay Road, Frenchman Bay (Tourist Development, Caravan Park (Glamping) And Restaurant) 2. Application report, including original proposed modified LDP (April 2022) 3. (a) Schedule of Submissions (b) Applicant Modifications to Original Schedule of Submissions 4. Bushfire Management Plan (September 2022) 5. Local Water Management Strategy (1 September 2022) 6. Site and Soil Evaluation (August 2022) 7. Coastal Hazard Assessment and CHRMAP (January 2021) 8. Surface and Groundwater Monitoring Plan (October 2022)
<b>Supplementary Information &amp; Councillor Workstation</b>	: Public submissions (in full) Agency submissions (in full)
<b>Report Prepared By</b>	: Planning Officer (D Ashboth) Coordinator Planning Services (J Wardell-Johnson)
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development & Environment (P Camins)

Councillor Baesjou declared an Impartiality Interest in this item. Councillor Baesjou remained in the Chamber and was present during the discussion and vote for this item.

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:

**Pillar:** Planet

**Outcome:** A resilient community that can withstand, adapt to, and recover from natural disasters.

**Objective:** Increase community readiness and resilience to bushfires and floods.

**Pillar:** Place

**Outcome:** Local history, heritage and character is valued and preserved.

**Objective:** Identify, preserve, and showcase significant local history and heritage.

**Pillar:** Prosperity

**Outcome:** A highly sought-after tourist destination.

**Objective:** Create a competitive and sustainable tourism offer.

3. The item relates to the following strategic objectives of the City of Albany Local Planning Strategy 2019 (the Planning Strategy).
- Enable tourist growth and diversification through land use planning mechanisms.
  - Integrate environmental and natural resource management with broader land use planning and decision-making.
  - Ensure that planning proposals on the coast will not be impacted by coastal processes.
  - Build resilience to bushfire risk through appropriate planning and building mechanisms.

**Maps and Diagrams:** Lots 1 & 2 Frenchman Bay Road



**In Brief:**

- A draft modified Local Development Plan (LDP) has been prepared by the proponent to replace the existing approved Local Development Plan 1 (LDP1), to guide the future redevelopment of Lots 1 and 2 Frenchman Bay Road, Frenchman Bay for the purposes of 'Tourist Development, Caravan Park (Glamping) and Restaurant'.
- The LDP was advertised for public comment and referred to service providers and State Government agencies for comment.
- The proponent submitted an amended draft LDP to address concerns raised during advertising, and in response to a number of matters raised in feedback from service providers and State Government agencies.
- The location and context of the subject site and specific aspects required to be considered and addressed by the modified LDP are various and complex.
- The recommended provisions prepared to support the proposed modified LDP, aim to ensure future development achieves a balanced outcome that mitigates potential risks and impacts, compliments the existing Frenchman Bay public recreation area, whilst delivering a high quality tourist development.
- In order to continue progressing the application and noting the proponent has submitted an amended modified LDP to address matters raised during assessment of the proposal, it is recommended that Council approve the modified LDP1, subject to application of recommended provisions.

**RECOMMENDATION**

**DIS328: RESOLUTION (AMENDMENT BY COUNCILLOR THOMSON  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR THOMSON  
SECONDED: COUNCILLOR BROUGH**

**THAT Council resolves to APPROVE Local Development Plan No. 1 and associated provisions, listed at pages 84 to 89 of the attachments, for Lots 1 & 2 Frenchman Bay Road, Frenchman Bay (Tourist Development, Caravan Park (Glamping) and Restaurant).**

**CARRIED 11-0**

**DIS328: AMENDMENT BY COUNCILLOR THOMSON  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR THOMSON  
SECONDED: COUNCILLOR BROUGH**

**THAT the Committee Recommendation be AMENDED to include the following wording:  
Council resolves to APPROVE Local Development Plan No. 1 and associated provisions, *listed at pages 84 to 89 of the attachments*, for Lots 1 & 2 Frenchman Bay Road, Frenchman Bay (Tourist Development, Caravan Park (Glamping) and Restaurant).**

**CARRIED 11-0**

**Councillor Reason:**

This amendment provides clarity on the provisions which form part of the approval for Local Development Plan No. 1.

*Councillor Thomson then proposed an amendment to the Substantive Motion.*

**DIS328: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SUTTON  
SECONDED: COUNCILLOR SMITH**

**THAT Council resolves to APPROVE Local Development Plan No. 1 and associated provisions for Lots 1 & 2 Frenchman Bay Road, Frenchman Bay (Tourist Development, Caravan Park (Glamping) and Restaurant).**

**DIS328: COMMITTEE RECOMMENDATION**

**MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR SHANHUN**

**THAT the Authorising Officer Recommendation be ADOPTED.**

**CARRIED 8-1**

**Record of Vote**

Against the Motion: Councillor Thomson



**DIS328: AUTHORISING OFFICER RECOMMENDATION**

THAT Council resolves to APPROVE Local Development Plan No. 1 and associated provisions for Lots 1 & 2 Frenchman Bay Road, Frenchman Bay (Tourist Development, Caravan Park (Glamping) and Restaurant).

**BACKGROUND**

4. The draft modified LDP has been prepared to replace the existing LDP1 that was approved in 2015. The draft modified LDP incorporates the following:
  - A two storey 10-12 bedroom lodge
  - 26 chalets
  - Camping area;
  - Associated amenities to support the tourist development, including a day spa and restaurant/cafe.
5. A report prepared by the proponent outlining the proposed modifications to the existing LDP1 and including supporting documentation, was submitted as part of the original application (refer Attachment 2). The report contains outdated and unsupported information, therefore it is recommended that this is not approved as part of this application.
6. The application for modifications to LDP1 was formally accepted for assessment by the City in May 2022. There has been an extended period of time to receive City-requested supporting documentation to address various outstanding matters. These matters include mitigation response to bushfire risk, proposed clearing of vegetation outside of lot boundaries and management of on-site effluent disposal.
7. These outstanding matters have still not been fully addressed by the proponent to provide absolute certainty in all aspects. Notwithstanding this, at the proponent's request, the proposed provisions allow for lodgement of the required information prior to or in conjunction with a development application.

Site details:

<b>Local Planning Scheme</b>	City of Albany Local Planning Scheme No. 1
<b>Zone</b>	Special Use 13
<b>LPS1 Special Uses</b>	Holiday Accommodation, Shop, Caretaker's Dwelling, Restaurant (Incidental) – Special Uses Permitted
<b>Lot Size:</b>	Lot 1: 13,607m <sup>2</sup> Lot 2: 18,987m <sup>2</sup>
<b>Existing Land Use:</b>	Vacant
<b>Bushfire Prone Area:</b>	Yes
<b>State Planning Policies:</b>	SPP 3.7 – Planning in Bushfire Prone Areas SPP 2.6 – State Coastal Planning Policy
<b>Local Planning Policies:</b>	Significant Tourist Accommodation Sites Policy Frenchman Bay Tourist Development Site Policy
<b>Local Development Plan:</b>	Local Development Plan 1 – Lots 1 and 2 Frenchman Bay Road

8. The existing LDP1 was approved in 2015 and incorporates 25 holiday accommodation units and associated amenities.

## DISCUSSION

### Proposal

9. The proposed modifications to LDP1 has been assessed against the relevant provisions contained under LPS1, and State and local planning policies.
10. The draft modified LDP1 was advertised to all Goode Beach residents via direct mail out, with a sign erected on-site and the proposal documentation made available on the City website.
11. At the closing of the public advertising period, 27 responses were received, 13 in support or having no objection, 8 in support subject to modification and 6 objections.
12. The application was also referred to service providers and State Government agencies. A detailed summary of the submissions and responses received, officer comment and recommendation and the proponent's response is contained in the Schedule of Submissions (refer Attachments 1 (a) and 1(b)).
13. Concerns raised in submissions received during advertising included the following:
  - Bushfire management
  - Protection of native vegetation and fauna
  - Confusion relating to staging of development
  - Loss of public access to beachfront due to coastal erosion.
  - Coastal erosion concerns (development should not be permitted).
  - Safety of heritage stairs.
  - LDP does not accommodate heritage trail.
  - Concerns with appropriate water supply.
  - Impacts of effluent disposal on Vancouver Springs.
  - Impacts of development located within Vancouver Springs setback area.
  - Separation to groundwater.
  - Car parking numbers are not sufficient.
  - Concerns with permanent residential development.
  - Lack of consultation with Albany's Menang Noongar population.
  - Intensity of development and impacts of tourists.
  - Impact on whaling station ruins.
14. In response to concerns raised during advertising and feedback received from State agencies and service providers, the proponent made further amendments to the modified LDP and also submitted updated supporting documentation.
15. Assessment and detailed discussion below is based the amended modified LDP and updated supporting documentation, in relation to variations sought to state planning policy requirements, submissions received during advertising, and advice received from state government agencies.

### Land Use

16. Schedule 4 –SU13 provisions of LPS1 identifies Caravan Park, Caretakers Dwelling, Holiday Accommodation, Shop and incidental Restaurant as uses permitted within the zone.
17. The modified LDP proposes future development of the site to incorporate Tourist Development, Caravan Park (Glamping) and Restaurant land uses.
18. As outlined above, concerns were raised during advertising regarding the intensity of proposed future development of the site, resulting impacts on the locality from tourists, and also the potential for permanent residential development.
19. Although LPS1 uses the outdated 'Holiday Accommodation' definition (now refers to use of dwellings for short-term accommodation) to identify acceptable uses in the SU13 zone, it is considered the form of development proposed as shown on the modified LDP is consistent with the intent of the zone and the land use statement identified in the Frenchman Bay Tourist Development Site Policy.

20. Tourism WA were referred the proposed modified LDP, who advised they would be pleased to see this proposal proceed, as it would provide the City with further diversification of its accommodation offering, and offer visitors a greater selection of hospitality options.
21. Intensity of future development of the site is limited by a number of aspects including bushfire management requirements, environmental constraints (such as management of on-site effluent disposal, groundwater runoff and stormwater disposal) and also coastal impacts.
22. Permanent residential development is not permitted in accordance with LPS1, with any application for this use directly conflicting with the use permissibility of the scheme and therefore not supported.
23. Recommended provisions to the modified LDP state that no building is permitted to be used/occupied as a 'caretaker's dwelling' until such time as a tourist development on the same lot has commenced operations, to ensure the primary intent of the site for tourist development is complied with.
24. The LDP includes two caretaker's dwellings, however there are a number of conditions that would have to be fulfilled under LPS1 before this could be considered.
25. Rather than asking the applicant to remove the second caretaker's residence, it is considered the LDP can progress with a provision being included outlining criteria for circumstances to consider a caretaker's dwelling directly associated with a tourist development.
26. The LDP also identifies building 'C' as bar/kitchen/shop, yet no bar type uses are permitted within the zone. A condition is therefore recommended that the reference to 'bar' be removed from the LDP, as an LDP is unable to vary Local Planning Scheme requirements.

Mitigation and response to impacts from coastal processes

27. As outlined above, concerns were raised in submissions received during advertising relating to risk of impacts from coastal processes, including whether the proposed future development of the site was appropriate in this location, and the subsequent risk of potential loss of public access to the foreshore if development were to proceed.
28. In accordance with State Planning Policy 2.6 – Coastal Planning a Coastal Hazard Assessment had been undertaken prior to submission of the application to modify LDP1.
29. A Coastal Hazard Risk Management and Adaptation Plan (CHRMAP) was also required to be prepared in accordance with SPP2.6 and informed by the outcomes of the Coastal Hazard Assessment. The CHRMAP was submitted by the proponent as part of the application to support consideration for the modifications to the existing LDP1.
30. The application including the CHRMAP was referred DPLH (Coastal) for advice, who provided no objection to the proposed modifications to LDP1 and outlined recommended provisions to be applied to the modified LDP.
31. Key recommendations from the CHRMAP and subsequent advice from DPLH (Coastal) related to how the future development of the site addresses and responds to identified coastal hazards, and requirements for future ceding of land to ensure ongoing provision of a foreshore in public ownership. Recommended provisions aim to ensure these matters are addressed, including,
  - application of time limited approvals for development, triggered by identified scenarios
  - future development embedding design considerations and to facilitate managed retreat protocols
  - notifications being placed on titles identifying the risk of coastal hazards
  - circumstances where the foreshore would be required to be ceded to public ownership

32. As recommended in the CHRMAP and outlined in the response from DPLH (Coastal), any development on the site should be time limited (temporary planning approval) and shall cease to have effect when any of the identified situations occur.
33. Both DPLH (Coastal) and the CHRMAP recommend that a 39-year timeframe be listed as a situation in which the temporary planning approval expires.
34. However, the City did not include the 39-year timeframe in this provision, due to industry doubts over the science involved in determining the timeframe, and that the other situations outlined in the provision involved greater finality and certainty.
35. In accordance with SPP2.6 and DPLH (Coastal) advice, once the development approval expires in accordance with the above, the development will need to be removed and potentially relocated to a safe position on the lot (if possible).
36. The land will need to be rehabilitated to its pre-development condition and the affected area (processes area and foreshore) shall be ceded to the Crown, free of cost and without any payment of compensation by the Crown.
37. The proponent has disputed the requirement to cede the land without compensation. However, ensuring public access to the beach is retained in perpetuity resulting in an appropriate and balanced outcome for the community and the locality.
38. In addition to SPP2.6, the requirements to cede a foreshore free of cost is also established under LPS1 Schedule 4 – Special Use Zone No. SU13 (5) and a foreshore to be ceded was identified on the previously approved LDP for the site (determined using an older method).
39. The proponent has also disputed the requirements to place a notification on the title of the affected lots advising of the coastal hazard and the requirement to cede a foreshore without payment. However, this advice is consistent with SPP2.6 and if the City disclose this risk, the City may be liable to legal action being taken against it.
40. The provisions to be applied to the modified LDP aim to ensure a balanced outcome that aims to mitigate the risk of potential impacts from coastal processes on future development of the site and the public recreation area, whilst maintaining ongoing public access to the foreshore in perpetuity.
41. The issues raised by the proponent are acknowledged. However, on balance the recommended provisions are considered to address the concerns raised during advertising, incorporate advice received from state agencies, and are in accordance with the requirements outlined under LPS1 and SPP2.6.
42. Furthermore, application of the requirements at the LDP stage of the development process is the most appropriate, to ensure that future development outcomes on the site appropriately mitigate and respond to the potential impacts of coastal processes at a holistic and strategic level, with the likelihood that these matters would be more difficult to address at later development application stages.

#### Bushfire considerations

43. As outlined above, submissions raised concerns regarding future development of the site and management of bushfire risk.
44. The subject site is located within a bushfire prone area and therefore the requirements of State Planning Policy 3.7 – Planning in Bushfire Prone Areas applies. A Bushfire Management Plan (BMP) was prepared and submitted as part of the application.
45. The modified LDP was referred to the Department of Fire and Emergency Services (DFES). Advice from DFES outlined they were unsatisfied that the BMP adequately addressed the performance principles relating to the location of the vulnerable land use, vehicular access, or otherwise provision of an on-site shelter.

46. Staff considered DFES's advice in their assessment of the draft modified LDP. With the exception of DFES's position on the proposal's non-compliance with the location requirements outlined under Element 1 of the SPP3.7 Guidelines, the City's consideration of the proposal generally aligned with the remaining DFES advice.
47. Detailed discussion regarding consideration of proposed bushfire management for future development of the site, DFES advice and how the recommended provisions to the modified LDP1 address these matters is outlined below.
48. The location and context of the site and risk of bushfire is acknowledged however the proposal is located on a legacy site where land uses classified as vulnerable under SPP3.7 are permitted in accordance with LPS1.
49. The current planning framework therefore limits the City's consideration of such matters, and its ability to further restrict land uses permitted under LPS1, where in the circumstances a proposal and supporting documentation such as a BMP adequately demonstrates compliance with applicable requirements.
50. DFES outline in their advice that the proposal does not meet Element 1 of the SPP3.7 Guidelines (in relation to strategic planning proposals).
51. The advice was noted however staff formed an alternate position, whereby the modified LDP was considered to meet the acceptable solution requirements of Element 1 for a strategic development proposal, as the BMP demonstrates future development of the site would be likely to achieve a rating of BAL-29 or below.
52. The modified LDP does not meet the acceptable solutions set out under Element 5 of the SPP3.7 Guidelines in relation to vehicular access for vulnerable uses (tourist accommodation).
53. The site is located on a peninsula, where public road access in two different directions is unable to be provided and access to a compliant suitable destination is currently unavailable.
54. The modified LDP and the current version of the BMP does not demonstrate compliance with Element 5, whereby any vulnerable tourism use proposed on site that has a capacity of up to a maximum of 100 guests and staff at any one time, is provided with an on-site shelter, or a compliant secondary suitable destination is otherwise nominated (where available).
55. This includes one of the requirements for an on-site shelter is that it be located to avoid exposure to a radiant heat flux exceeding 10kW/m<sup>2</sup> (BAL-10). The BAL contour plan provided with the BMP indicated the lowest BAL-rating on-site to be BAL-12.5.
56. The bushfire consultant has advised that a suitable area for on-site shelter, with radiant heat flux not exceeding 10kW/m<sup>2</sup> can be provided through a Method 2 (alternative) assessment. However, the City is not satisfied that the current version of the BMP adequately demonstrates this requirement as being met.
57. To address this, a provision is recommended to be applied to the modified LDP requiring submission of a written declaration to the City by a Level 3 bushfire consultant, confirming that a suitable area for on-site shelter, with radiant heat flux not exceeding 10kW/m<sup>2</sup> can be provided on-site to service the entire development.
58. This condition is in accordance with 6.3(c) of SPP 3.7 that outlines a strategic planning application must provide *"clear demonstration that compliance with the bushfire protection criteria in the Guidelines can be achieved in subsequent planning stages."*

59. The current version of the BMP also does not nominate an acceptable secondary suitable destination. The City's position is that it is unlikely that a secondary destination that meets the requirements of SPP 3.7 Guidelines will become available within the expected timeframes for commencement of a tourist development on the subject site, and therefore the requirement for demonstration in the BMP for the provision of a compliant on-site shelter remains.
60. Following the above, an updated BMP was requested by staff to address the above outstanding matters and enable the City in progressing its consideration of the modified LDP. However, an updated BMP has not been forthcoming, with the proponent subsequently requesting the modified LDP and supporting documentation be referred to Council for determination in its current form and without submitting this requested information.
61. A late amendment to the LDP included an 'Indicative Tent Area' within an area identified as BAL-FZ/BAL-40. Due to concerns raised by DFES over 'Glamping tents' in this area on a previous iteration of the LDP, there is uncertainty as to whether these structures will be permitted in a BAL-40/FZ area (tolerable loss) in accordance with SPP 3.7.
62. Although it is likely these tents would be considered tolerable loss and therefore supportable from a bushfire perspective, this element has not been adequately addressed, and therefore it is recommended that a provision be attached to the LDP stating the indicative tent area was permitted, subject to compliance with SPP3.7.
63. It is also noted that DFES also advised that A5.9 – Water of SPP3.7 Guidelines has not been met within the BMP. This has been in part due to uncertainty over whether a reticulated water supply will be brought to the site.
64. The BMP in its current form is also not supported and therefore not endorsed by the City, given the number of outstanding matters relating to bushfire management. As outlined above, in order to continue progressing the application, provisions recommended to be applied to the modified LDP1 to address the above outstanding matters including:
- Requirement for submission of updated BMP for the City's endorsement that addresses the outstanding matters,
  - Submission of a written declaration confirming that a suitable area for on-site shelter can be provided on-site to service the entire development,
  - Limitation of the total on-site capacity to 100 guests and staff, unless an appropriate performance solution can be provided under the Guidelines; and
  - Requirement for strategic on-site water to be provided in accordance with the SPP3.7 Guidelines.

#### Environmental considerations

65. As outlined above, submissions raised concerns regarding impacts on native vegetation and fauna, separation of groundwater, and the Vancouver Spring Catchment Area from future development of the site.
66. A provision is recommended to be applied to the modified LDP that requires submission of a fauna management plan, to manage threatened species during each stage of the development works.
67. Clearing of vegetation is proposed outside of lot boundaries, in accordance with the supporting BMP, to facilitate provision of a compliant on-site shelter (as outlined above).

68. The proposed clearing of vegetation outside of the lot boundaries was referred to City of Albany Reserves who provided in principle support, with the exception of:
- Frenchman Bay road reserve along the eastern boundary; and
  - The vegetation on the slope between the picnic area and the toilets at the top car park, (north of the access road to the beach).
69. Proposed clearing of vegetation within the verge along Frenchman's Bay Road was not supported due to the potential presence of a threatened orchid, that has been recorded within proximity to the site.
70. The section of verge was also identified as being of environmental significance providing wildlife corridors connecting the adjacent Torndirrup National Park and City managed natural reserves.
71. Proposed clearing of vegetation above the picnic area was not supported due to the steepness of the location and the potential erosion impacts.
72. It should be noted that final approval of clearing of vegetation outside of lot boundaries falls under separate legislation, and therefore is unable to be granted as part of the modified LDP.
73. It is acknowledged that the development outcomes of the modified LDP and specifically bushfire considerations required to be addressed significantly rely upon approval being issued for clearing of vegetation.
74. Resolution of these matters is however ultimately the responsibility of the proponent, and therefore a provision is recommended to be applied to the modified LDP requiring all necessary approvals being obtained for any proposed clearing of vegetation.
75. The Site and Soil Evaluation Report was approved by Department of Health and City of Albany Environmental Health. DWER raised concerns in relation to soil categories used in the report, believing some soils on site display characteristics of clay, which have lower permeability.
76. Should further investigations determine this is the case, the application areas required for the effluent disposals systems would be larger than currently indicated in the report, which in turn could impact the viability of the development as proposed.
77. It is therefore recommended that a provision requiring in-situ soil infiltration testing to the satisfaction of the DWER is undertaken. This condition should also require the Site and Soil Evaluation Report to be updated to ensure the correct soil categories are identified.
78. The original draft modified LDP that was advertised identified some development within the Vancouver Springs Setback Area, identified under SU13 provisions of LPS1. The revised modified LDP submitted by the proponent removed all development from the setback area.
79. DWER, Department of Health and City Environmental Health Officers advised there were no concerns with the proposed effluent disposal subject to soil permeability testing, with the requirement that all land application areas must be located a minimum of 100m from the Vancouver Spring Catchment Area.
80. DWER in their advice also raised concerns in relation to the proposed setback to Vancouver Spring, the need for a Local Water Management Strategy (LWMS), and groundwater monitoring. To address these matters, the proponent prepared and submitted a Groundwater Monitoring Plan and Local Water management Strategy.
81. These were referred to DWER for additional comment, who indicated in principle approval, subject to implementation. Provisions are recommended to be applied to the modified LDP requiring implementation of any identified actions from these supporting documents.

82. In regards to off-site stormwater impacts, City of Albany Reserves identified existing drainage issues in the Frenchman Bay picnic area, that resulted in serious erosion to the carpark area last winter. The applicant has been advised that any future development/works on the subject site must not increase the amount of water flowing downhill into the public recreation area.
83. In response, the proponent advised that the LWMS indicates the development will not increase the amount of water flowing downhill into the public recreation area.
84. To further address this concern, the proponent suggested extending the outlet pipe from the basin down to the coastline (within the access road reserve) with rock pitching/erosion measures installed at the outlet end, and direct flow path for outflow to coast to prevent any further erosion of foreshore.
85. As stormwater is required to be maintained on site as part of any future development, these matters are expected to be addressed at the development application stage.
86. Based on the above, the supporting documentation and recommended provisions to the modified LDP are considered to adequately address matters raised in submissions received during advertising and advice from state agencies in relation to mitigating potential impacts on environmental values on the subject site and within the adjoining reserves.

#### Car parking

87. Concerns were raised during advertising regarding insufficient car parking be provided for future development of the site in the modified LDP.
88. An LDP cannot vary a requirement of a local planning scheme, and therefore the car parking areas identified on the LDP have been labelled as 'indicative'.
89. A variation to LPS1 car parking requirements could be sought as part of a future development application and would be assessed on its merit at the time.
90. A provision is recommended to be applied to the modified LDP requiring car parking being provided in accordance with the requirements of the local planning scheme and AS 2890.

#### Heritage considerations

91. Whilst the history of the site is acknowledged, the subject site is not included on the City's Heritage List and is not afforded protection status as a heritage-protected place in accordance with the Planning Regulations.
92. The subject site however adjoins the Frenchman Bay Whaling Station (ruin) (P16612) (including Kep Mardjit / Vancouver Spring & Dam). Frenchman Bay Whaling Station (ruin) is included on the State Register of Places and the City's Heritage List and the curtilage (area) of historic heritage significance includes the existing concrete steps from the subject site down to the public recreation area.
93. Following significant erosion events within the precinct and the resulting impacts on the public foreshore, the City engaged Archae-aus to prepare the Frenchman Bay Whaling Station Archaeological Management Plan.
94. The AMP aims to provide guidance and recommendations for stakeholders in the ongoing management of the archaeological and historic heritage aspects of the place, including considerations for future development within the public reserve and the adjoining subject site.
95. Provisions are recommended to be applied to the modified LDP that ensure heritage considerations of the adjoining site are adequately addressed as part of future development, including actions relating to monitoring of archaeological elements during associated construction works.



96. Heritage considerations relating to proposed redevelopment of the existing concrete steps within the adjoining reserve are discussed below.
97. The application was also referred to the Department of Planning, Lands & Heritage – Aboriginal Heritage Operations who advised that the proposed works and land parcels do not intersect with any known Aboriginal Sites or Heritage Places.

Public Access to Frenchman Bay recreation area

98. Concerns were raised in submissions regarding the safety of the existing heritage stairs.
99. The City of Albany Infrastructure Team also advised that the existing stairs from the lots in question to the foreshore (east of lot 1) do not meet Australia Standards and will be a hazard if used by the public.
100. Furthermore, these stairs are located within the curtilage of the adjoining Frenchman Bay Whaling Station (ruin) and inform the cultural heritage significance of the place. Any proposed substantial redevelopment or full removal and replacement of these stairs will be required to consider impacts on heritage.
101. Given the above, and the fact that the existing vehicular access to the beach is unsafe for pedestrian use, a provision is recommended to be applied to the modified LDP requiring suitable arrangements be made with the City of Albany for pedestrian access from the subject site to the foreshore/beach, prior to any application for a tourist development land use.
102. Arrangements are expected to involve a contribution for provision of safe access between the foreshore recreation area and the publicly accessible areas of the subject site. The layout and design of this access is expected to be guided a Foreshore Management Plan, to be prepared for the Frenchman Bay recreation area.

Implementation of future development of the site

103. Issues raised in relation to implementation of future development of the site included confusion regarding the proposed staging of the development, concerns that the modified LDP did not accommodate the proposed heritage trail and whether there was appropriate water supply for future development of the site.
104. The proposed modified LDP was referred to Water Corporation for comment, who provided no objection, with advice that further detail was required as to how the development will be serviced with water. To address this requirement, detail is expected to be provided with any future development application lodged for the site.
105. The SU13 provisions under LPS1 require all development on the subject site to be connected to reticulated water supplied by a licenced provider.
106. An LDP cannot vary a requirement of a local planning scheme, and therefore a provision is recommended to be applied to the modified LDP to address this requirement.
107. However, a variation could be sought as part of any future development application, and should the proponent seek to vary this requirement, detailed hydrological studies and associated environmental impact reports would be required to be provided, demonstrating to the City, in consultation with relevant state government agencies, that there would be no detrimental impacts on the groundwater or wider environment.
108. The concerns raised regarding heritage trail not being included in the proposed modified LDP are noted.
109. The landowner has advised they do not intent to incorporate the heritage trail within the future development of the site, as they don't believe it to be compatible with the proposed tourist concept. Although the proposed heritage trail is desired by the local community, there is no planning requirement that this be provided by the landowner.

110. Any reference to staging of development has been removed from the LDP.
111. It should be noted that there are expected to be significant interdependencies across future developments and land uses of the subject site, due to the proposed layout and associated operational matters (such as on-site effluent disposal, vehicle access and parking, waste collection and bushfire management considerations).
112. Following this, it would be the City's preference for the lots to be amalgamated. This was a requirement under the previously approved LDP. The applicant however has advised they wish to sell one of the lots to another operator, and therefore does not support the requirement for amalgamation.
113. It is therefore recommended that a provision be applied to the modified LDP that requires the proponent to formalise these interdependencies through easements on the title.
114. These easements should formalise reciprocal access rights, reciprocal access to a strategic water supply, reciprocal access to an on-site shelter and the right to use adjacent lots for effluent disposal purposes. Easements should also formalise access rights for emergency fire purposes in favour of the local government and state emergency services provider.

### **GOVERNMENT & PUBLIC CONSULTATION**

115. The application was advertised to all Goode Beach residents via direct mail out a sign was erected on-site and the plans were made available on the City website.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Mail Out	04/05/2022 to 15/06/2022	27 submissions received	No
Consult	Public Comment – City website	04/05/2022 to 15/06/2022		Yes
Consult	Sign on site	04/05/2022 to 15/06/2022		No

116. Through this process a total of twenty-seven (27) responses were received, thirteen (13) in support or having no objection, eight (8) in support subject to modification and six (6) objections.
117. As outlined above, a concern raised in submissions received during advertising related to a lack of consultation with Albany's Menang Noongar population.
118. This is not a statutory requirement for consideration of the LDP process, however it is understood the landowner has engaged a project manager to undertake consultation with the local Menang Noongar community in relation to the modified LDP and future development of the site.
119. The draft modified LDP was also referred to service providers and state government agencies, with responses received from the following:
- Department of Biodiversity, Conservation and Attractions
  - DWER
  - DPLH Coastal
  - DPLH Aboriginal Heritage Operations
  - Tourism WA
  - Water Corporation
  - Department of Health
  - DFES

## STATUTORY IMPLICATIONS

120. The subject lots are zoned 'Special Use' under LPS1. Clause 1, Schedule 4 – Special Use Zone SU13 of LPS1 requires that "All land use and development shall be consistent with a Development Guide Plan prepared by the landowner and adopted by the Local Government".
121. An LDP (also formerly known as Development Guide Plans) is a mechanism used to coordinate and assist in achieving better built form outcomes over larger development sites, by linking lot design to future development.
122. Consideration of new LDPs and modifications to current LDPs are assessed in accordance with the processes set out under Part 6 of the Planning and Development (Local Planning Schemes) Regulations 2015 Deemed Provisions, including requirements for advertising and referrals.
123. Clause 52 of the Planning Regulations Deemed Provisions allows the local government to approve a Local Development Plan with or without requiring modifications.
124. Voting requirement for this item is **Simple Majority**.

## POLICY IMPLICATIONS

125. The proposal is not consistent with the 'Acceptable Solutions' relating to Element 5: Vulnerable Tourism Land Uses of the SPP3.7 Guidelines for Planning in Bushfire Prone Areas.
126. Approving the modified LDP at this stage in its current form, without outstanding matters being adequately addressed, specifically in relation compliance with bushfire requirements, is likely to have unintended consequences on the implementation of development of the subject site.
127. Approval of the modified LDP at this stage, does not guarantee nor provide greater certainty that future development of the site for tourist development will be able to be implemented to the fullest extent currently proposed.
128. To address the risk of potential unintended consequences and to create a degree of certainty demonstrating the capability of future development of the site, staff requested the outstanding matters be addressed at this stage, rather than through submission of updated supporting documentation.
129. Staff made the proponent aware of the risks in progressing the modified LDP in its current form, however it was requested to refer the proposal to Council with these matters remaining outstanding and addressed at a later stage.
130. Although not the preferred outcome, in order to continue progressing the modified LDP at the proponent's request, staff recommend provisions be applied aimed at identifying approaches to adequately address the outstanding matters, including compliance with bushfire requirements.
131. By approving the modified LDP in its current form, without these matters being addressed, creates a degree of uncertainty in the future development potential of the site. This is likely to result in additional delays to implementation timeframes, as these matters are still required to be addressed at a later stage, with potential modifications to the LDP.
132. The remaining provisions of the Frenchman Bay Tourist Development Site policy that relate to built form are not applicable at this stage and would be assessed as part of any future development application.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Community.</b> <b>Risk:</b> Approving an application with unresolved issues may cause reputational damage to the council if outstanding information ensures the LDP is unable to proceed in its approved form.	Possible	Minor	Medium	The application was assessed against the relevant statutory framework. Mitigation of impacts to be achieved through adoption and enforcement of conditions.
<b>People Health and Safety:</b> <b>Risk:</b> The proposed development may result in risk to human safety during a bushfire event.	Rare	Major	Low	Mitigation of impacts to be achieved through adoption and enforcement of conditions.
<b>Opportunity:</b> Responds to the need to position the City of Albany as a highly sought-after tourist destination.				

**FINANCIAL IMPLICATIONS**

134. All costs associated with the development will be borne by the proponent.
135. However, should the proponents be aggrieved by Council's decision or any attached conditions and seek a review of that decision or conditions through the State Administrative Tribunal, the City could be liable for costs associated with defending the decision at a State Administrative Tribunal hearing.

**LEGAL IMPLICATIONS**

136. Council is at liberty to use its discretion to approve or refuse the proposal. An applicant aggrieved by a decision or condition may apply for a review to the State Administrative Tribunal, in accordance with Section 252 of the Planning and Development Act 2005.
137. The proponent has the right to seek a review of the Council's decision, including any conditions attached to an approval. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

**ENVIRONMENTAL CONSIDERATIONS**

138. Prior to the commencement of the tourist development, 12 months of groundwater monitoring must be undertaken in accordance with the Surface Water and Ground Water Monitoring Plan.
139. It is the responsibility of the proponents and landowners to ensure that all obligations under the *Environment Protection and Biodiversity Conservation Act 1999*, *Environmental Protection (Clearing of Native Vegetation) Regulations 2004* and *Government Sewerage Policy* are fulfilled.

**ALTERNATE OPTIONS**

140. Council has the following alternate options in relation to this item, which are:
- a) To require the proponent to modify the LDP in a manner specified, and resubmit the modified LDP for approval; or
  - b) To refuse to approve the proposed modifications to LDP1, subject to reasons.

**CONCLUSION**

141. The proponent requested that the application for proposed modifications to LDP1 (Tourist Development, Caravan Park (Glamping) and Restaurant) at Lots 1 & 2 Frenchman Bay Road be attached on the agenda for determination at the December 2022 Ordinary Council Meeting.
142. Further information and justification remain outstanding that are required to address a number of unresolved issues including bushfire, clearance outside of lot boundaries and on-site effluent disposal.

143. To keep the application progressing, provisions are recommended to be applied to the modified LDP, to ensure these unresolved matters are capable of being addressed, primarily through the submission of updated supporting documentation.
144. The provisions aim for ensuring a balanced outcome from future development of the site that results in a high quality tourist accommodation destination, that meets relevant policy requirements, responds to the context and constraints of the site, minimises the impacts on environmental and heritage matters and compliments the adjoining public recreation area.
145. It is recommended that Council approve the modifications to Local Development Plan No.1 and associated provisions for Tourist Development, Caravan Park (Glamping) and Restaurant at Lots 1 & 2 Frenchman Bay Road, Frenchman Bay.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. Local Planning Scheme No.1</li> <li>2. State Planning Policy 3.7 – Planning in Bushfire Prone Areas.</li> <li>3. Guidelines for Planning in Bushfire Prone Areas</li> <li>4. State Planning Policy 2.6 – Coastal Planning</li> <li>5. Significant Tourist Sites Local Planning Policy.</li> <li>6. Frenchman Bay Tourist Development Site Local Planning Policy.</li> <li>7. Government Sewerage Policy.</li> </ol>
<b>File Number (Name of Ward)</b>	:	LDP1 Vancouver Ward
<b>Previous Reference</b>	:	<p>O.C.M. 19/05/2009 – Item 11.1.1</p> <p>O.C.M. 24/03/2015 – Item PD075</p> <p>OCM. 22/09/2015 – Item PD092</p>

## DIS329: DRAFT LOCAL PLANNING POLICY 1.6: SHORT-TERM ACCOMMODATION

<b>Land Description</b>	: City of Albany
<b>Proponent / Owner</b>	: City of Albany
<b>Business Entity Name</b>	: City of Albany
<b>Attachments</b>	: Proposed Local Planning Policy 1.6: Short-term Accommodation and Schedule of submissions
<b>Supplementary Information &amp; Councillor Workstation</b>	: Copies of submissions
<b>Report Prepared By</b>	: Planning Officer (D Ashboth) Coordinator Planning Services (J Wardell-Johnson)
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development & 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 amendment, the Council is obliged to draw conclusion from its adopted Albany Local Planning Strategy 2019 (the Planning Strategy) and Strategic Community Plan – Albany 2032.
3. Relevant elements, objectives and strategic directions of these documents relevant to this item are outlined under the Strategic Implications section of the previous report item DIS305, presented to Council in June 2022.

#### In Brief:

- Draft *Local Planning Policy 1.6: Short-Term Accommodation* was advertised for public comment, following Council's endorsement to advertise.
- Concerns raised during the consultation period primarily relate to car parking, bushfire, management requirements and inconsistent regulation of short-term accommodation across the state.
- Some general and administrative modifications are proposed to draft LPP1.6, informed by submissions received.
- Staff recommend Council resolve to adopt final draft LPP1.6 (Attachment 1) with modification.

### RECOMMENDATION

**7.13PM** Councillor Smith and Councillor Traill declared a Financial Interest in this item and left the Chamber.

#### DIS329: RESOLUTION

#### VOTING REQUIREMENT: SIMPLE MAJORITY

**MOVED: COUNCILLOR THOMSON**

**SECONDED: COUNCILLOR TERRY**

**THAT Council:**

- A) ADOPT Local Planning Policy 1.6: Short-term Accommodation, pursuant to Schedule 2, clause 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**
- B) NOTE Local Planning Policy 1.6: Short-term Accommodation supersedes existing Holiday Accommodation and Bed and Breakfast local planning policies, and that these policies are to be revoked following notice being issued in accordance with clause 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

**LOST 3-6**

#### Record of Vote

For the Motion: Mayor Wellington, Councillors Thomson and Terry.

DIS329: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY

SECONDED: MAYOR WELLINGTON

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 5-3

**Record of Vote**

Against the Motion: Councillors Brough, Baesjou and Benson-Lidholm

DIS329: AUTHORISING OFFICER RECOMMENDATION

THAT Council:

- A) ADOPT Local Planning Policy 1.6: Short-term Accommodation, pursuant to Schedule 2, clause 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
- B) NOTE Local Planning Policy 1.6: Short-term Accommodation supersedes existing Holiday Accommodation and Bed and Breakfast local planning policies, and that these policies are to be revoked following notice being issued in accordance with clause 87 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**BACKGROUND**

- 4. Draft LPP1.6 was prepared to address outcomes of a review of the City's existing *Holiday Accommodation* and *Bed and Breakfast* local planning policies.
- 5. Draft LPP1.6 aims to:
  - a) Consolidate and refine the relevant provisions of the existing policies and provide further consideration and guidance in addressing relevant planning matters consistently raised during the advertising process for short-term land uses.
  - b) Respond to strategic direction and state planning policy changes that inform decisions on short-term accommodation proposals, in relation to regulatory and operational matters, and proposals in bushfire prone areas.
- 6. Draft LPP 1.6 was advertised, following Council's endorsement at its meeting in June 2022, with five public and one agency submission received during the advertising period.

**DISCUSSION**

- 7. Concerns raised during the consultation period primarily relate to car parking, bushfire, management requirements and inconsistent regulation of short-term accommodation across the State. A summary of public and State government agency submissions is provided in the Schedule of Submissions (refer Attachment 1).
- 8. As previously mentioned, one of the primary purposes of preparing draft LPP1.6 was to consolidate existing local planning policies in relation to short-term accommodation, following a substantial review, and update some provisions to ensure consistency with recent changes to state planning policy, specifically in relation to bushfire.
- 9. The provisions contained under the existing Holiday Accommodation policy conflicted with these recent state policy changes, and therefore required to be updated.
- 10. The outcomes of the review of the existing Holiday Accommodation and Bed & Breakfast policies and proposed replacement draft LPP1.6 that consolidates them, and purpose of the amendments to support State government policy changes are discussed in more detail in the previous item DIS305 and summarised below in response to submissions received.
- 11. Final draft LPP 1.6 involves recommended modifications, informed by submissions received during advertising and further minor administrative improvements that were highlighted during the consultation period.

Designated short-term accommodation area

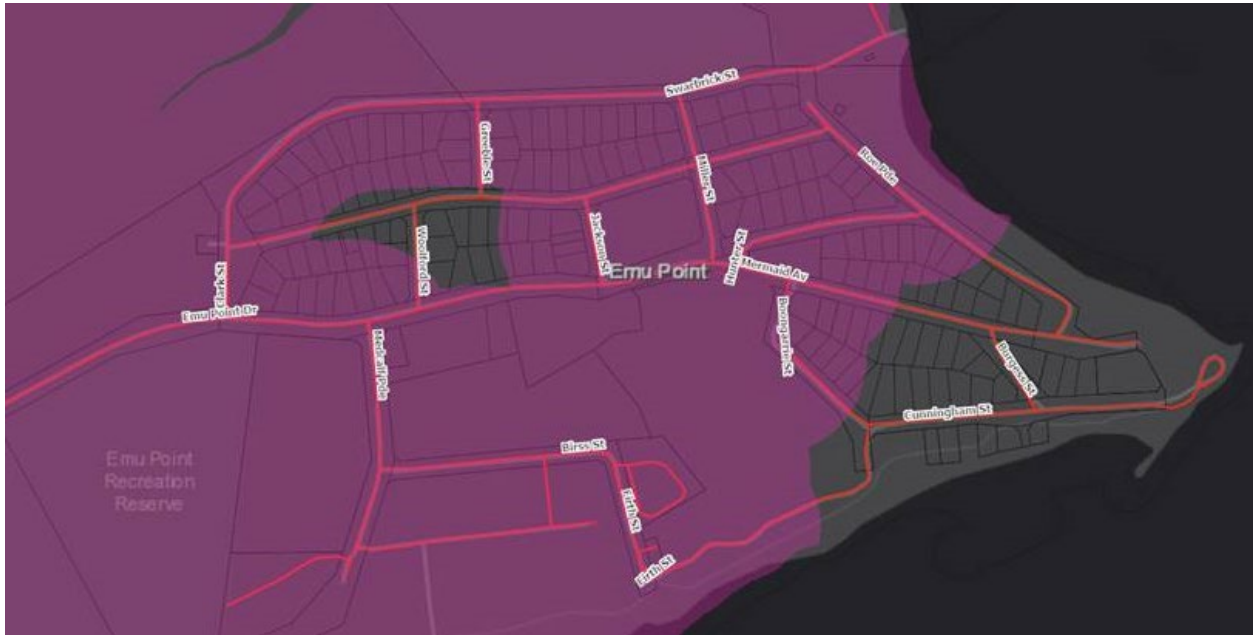
12. Concerns raised in submissions received related to the creation of a 'short-term accommodation area' unfairly excluding some residents.
13. The review of the *Holiday Accommodation* policy involved amendments to:
  - Reclassifying the 'Preferred holiday accommodation area' to 'Short-term accommodation area'
  - The size and location of the reclassified 'Short-term accommodation area', by removing Little Grove and Goode Beach from the designated area. These amendments were primarily to address recent changes to requirements under the SPP3.7 Bushfire Guidelines, as new proposals in these areas are generally unable to meet the requirements of the Guidelines.
  - Additional provisions outlining performance criteria for the assessment of new proposals located outside of the designated short-term accommodation area. These additional provisions were an identified improvement outcome following review of the existing Holiday Accommodation policy.

Bushfire

14. The Department of Fire and Emergency Services (DFES) advised that no references to specific elements of the Bushfire Guidelines should be made within the policy, particularly given State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP3.7) and the associated Guidelines are currently undergoing further review.
15. As a result, provision 26 has been replaced with a broad provision stating short-term accommodation will be assessed against SPP3.7 and the associated Guidelines.
16. DFES also advised that draft provision 27 incorrectly infers that a Bushfire Emergency Evacuation Plan (BEEP) can be prepared by a bushfire practitioner, when these documents should be prepared by an emergency management practitioner. The reference to a 'suitably qualified bushfire practitioner' has therefore been amended to a 'suitably qualified practitioner'.
17. Draft provision 30 was also removed as it referred to specific elements of SPP3.7 and associated Guidelines. The original intention of the provision to provide certainty for decision-makers and applicants was also not being achieved, and therefore deletion was the preferred outcome in this instance.
18. DFES also recommend removal of Emu Point from the Short-term Accommodation Area and advised that the area cannot currently comply with Element 5, Acceptable Solution A5.5 of the Bushfire Guidelines in terms of vehicular access and is surrounded by an extreme hazard.
19. Element 5 Acceptable Solution A5.5 of the Guidelines require (amongst other things) public road access to be provided in two different directions to at least two different suitable destinations. A Suitable Destination is defined as:

*"An area that is not classified as bushfire prone on the Map of Bush Fire Prone Areas, or is greater than 100 metres from classified vegetation as per AS 3959 and can provide shelter during a bushfire event."*
20. This advice was questioned by the City, given there are large portions of land within Emu Point that are not bushfire prone (see grey area in image below) and therefore can be considered 'suitable destinations' under the Guidelines (see image below) and which, in conjunction with the Albany CBD, ensure public road access in two directions to suitable destinations.





21. In response to further questions by the City, DFES advised that whilst not specifically defined within the Guidelines, DFES considers shelter to be an area suitable of providing some protection in the event of a bushfire.
22. They also advised that they have not finalised guidelines clarifying exactly what “shelter” may be recognised/supported by DFES but this is something they hope to develop in the near future.
23. It is therefore apparent that this advice from DFES has not been provided against the provisions of the Guidelines, developed by the Department of Planning, Lands and Heritage and goes beyond the mechanisms made available to officers to consider bushfire risk in matters related to planning.
24. Previous advice to the City has indicated that an application is unable to be refused for bushfire reasons if the Acceptable Solutions of the Guidelines have been achieved.
25. Given Emu Point (unlike Goode Beach and Little Grove) is capable of providing public road access in two different directions to at least two different suitable destinations (Albany CBD and eastern section of Emu Point), a proposal in this location is likely to meet the Acceptable Solutions, and it is therefore recommended Emu Point remain in the designated ‘Short-term accommodation area’.
26. This matter can be revisited following any subsequent changes to SPP3.7 and associated Guidelines or the bushfire prone area.
27. In their advice DFES also advised that Emu Point is likely subject to an extreme Bushfire Hazard Level (BHL) and therefore DFES were of the view that this hazard cannot be ignored.
28. DFES suggested the City could address this matter by considering a BHL assessment be undertaken to confirm the BHL of Emu Point.
29. This advice is noted however this is a separate process and not required to be undertaken through consideration of the subject LPP.
30. Following this and matters outlined above, short-term accommodation proposals in Emu Point, and specifically compliance with bushfire requirements, are considered to be adequately addressed through the development application process and assessment under the provisions of SPP3.7 and associated Guidelines.

Car parking

31. Comments received during advertising related to matters including the proposed car parking provisions outlined under draft LPP 1.6, raising concerns that one car per three people is too high.
32. The car parking provisions under the existing *Holiday Accommodation* and *Bed and Breakfast* local planning policies are proposed to be retained without modification under draft LPP1.6. The review of the existing parking provisions considered whether they were still appropriate and relevant, taking into account the following:
  - Outcomes of approved short-term accommodation proposals, including consideration of any known complaints or issues that related car parking
  - The location and context of the proposed short-term accommodation area and mitigating potential conflict with adjoining uses, including:
    - Consideration of proposals on narrow streets in the Albany's historic town centre, where a reduction to on-site parking requirements would be likely to cause land use conflict and potentially have a detrimental impact on existing users
    - Private vehicles remains the dominant transport mode for visitors to Albany, with public transport and taxi availability limited, ridesharing such as Uber unavailable and many attractions and activities requiring private transport to access.
  - Although visitors may travel in groups of more than 3 people per car, there's a potential they may also travel with 3 or less people per car. As the provisions of the policy only capture maximum number of guests and vehicles, and not how a group of guests to a short-term accommodation use may be structured, the provisions in their current form are considered to adequately account for these variables.
33. Following the above, it is considered that the existing car parking requirements requiring one-car park per three guests continue to remain relevant and reasonably mitigate potential impacts and land use conflict on adjoining land uses from short-term accommodation proposals.

Proposed amendments to operational requirements for short-term accommodation uses

34. Submissions received during advertising outlined concerns relating to operational requirements for short-term accommodation proposals:
  - The policy changes create unnecessary barriers and red tape,
  - Unreasonable to expect property manager to be contactable 24 hours a day and visit site within 2 hours.
35. As outlined above and under previous item DIS305, other than provisions requiring to be updated to reflect state planning policy, the majority of provisions from the existing *Holiday Accommodation* and *Bed & Breakfast* policies are remaining unmodified, with the exception of some additional requirements relating to operational requirements for short-term accommodation proposals.
36. The proposed additional requirements are aimed at further addressing amenity concerns and neighbour objections consistently raised during consideration of short-term accommodation proposals.
37. The additional requirement for 24-hour availability by an operator is considered reasonable and is intended to provide greater certainty to adjoining residents that short-term accommodation uses will be appropriately managed whilst in operation.
38. If an operator is unable/unwilling to meet these requirements, consideration should be given to engaging a short-term accommodation property management operator that offer this service.

39. Submissions suggested more clarity was required regarding the extent the approved management plan should be distributed by the property manager under provision 15. In response, an advice note was added to this provision stating the property manager should contact the City of Albany to confirm the extent to which the management plan should be distributed.
40. This was considered the most appropriate response given the adjoining landowners deemed to be impacted would vary significantly by area. For instance, short-term accommodation in a rural area with large lots may only impact the direct neighbours, whilst short-term accommodation in high density residential areas may impact more properties given their closer proximity to the short-term accommodation.
41. The operational amendments outlined above are not expected to place unreasonable burden on short-term accommodation proposals and are intended to ensure responsible management of short-term accommodation uses, that assist in mitigating potential land use conflict or detrimental impacts on adjoining properties and the locality.

Implementation of State government strategic direction and policy

42. Concerns raised in submissions received during advertising related to the application of consistent short-term accommodation policy across WA, the City should await the outcome of the WA Government's ongoing consultation and reform process on the same topic prior to proceeding with any regulatory reform at the local level. and implementation of State government direction prior to finalisation.
43. In relation to the application of a consistent short-term accommodation policy across WA, these comments are noted and supported in principle. However, this is a long-term action to be driven by State government through regulatory reform program, with modifications to be made to the policy as and when required.
44. The proposed updates incorporated into draft LPP1.6 that reflect State government policy changes relate to recent regulatory changes under the SPP3.7 Bushfire Guidelines.
45. General amendments proposed relate to use of terminology, however as the current local planning scheme definitions have been formally changed, these changes are relatively minor, being applied for consistency,
46. It is acknowledged that substantial changes as a result of State government reform have not been finalised, and therefore any changes as a result of these would be incorporated into the LPP at a later date where required.

**GOVERNMENT & PUBLIC CONSULTATION**

47. The LPP was advertised in accordance with Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
48. City officers also directly consulted the Little Grove Progress Association and the Frenchman Bay Association, given the removal of Little Grove and Goode Beach from the Short-term Accommodation Area.
49. A meeting was subsequently arranged with the Frenchman Bay Association to discuss the implication of the proposed LPP.
50. South Coast Progress Association declined the option for a meeting given the LPP would not impact existing, approved short-term accommodation. They also support the removal of Little Grove from the Short-term Accommodation Area.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Notice in Advertiser	28/07/2022	5 submissions received	Yes
Consult	Public comment – City website	28/07/2022 to 06/09/2022		Yes
Consult	Mail Out	28/07/2022 to 06/09/2022		No
<b>Note:</b> Frenchman Bay Association and South Coast Progress Association were directly contacted (emailed) with an invitation to meet and discuss the LPP.				

51. Following the close of advertising five public submissions were received: three in support, one support subject to modification and one objection.
52. The comments, including the proponent's and staff recommendations are provided in the attached 'Schedule of Submissions'. The broad issues are summarised and discussed above.
53. The draft LPP was also referred to the Department of Planning Lands and Heritage (Bushfire) and the Department of Fire and Emergency Services for comment.
54. Agency comment is summarised below. Officer comments and recommendations are provided in the attached schedule, while broad issues are discussed above.
55. DFES provided the following advice, which is outlined in the Schedule of Submissions and in further detail above:
  - Advised the LPP should not be supported until additional information has been provided including a bushfire assessment, identification of any bushfire hazard issues; and an assessment against the bushfire protection criteria.
  - Recommend removal of Emu Point from the Short-term Accommodation Area and advised that the area cannot currently comply with Element 5, acceptable solution A5.5 in terms of vehicular access and is surrounded by an extreme hazard.
  - Advised references to specific elements of SPP3.7 and the associated Guidelines should be removed.

### STATUTORY IMPLICATIONS

56. Voting requirement for this item is **Simple Majority**.
57. A periodic review of the City's local planning policy (LPP) suite is currently underway.
58. Consideration of draft new LPPs and proposed modifications to existing LPPs require resolution of Council for endorsement to advertise and final adoption following advertising, subject to modifications, in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015* (Planning Regulations).
59. Should Council resolve to adopt LPP1.6 a notice of the policy must be published in accordance with clause 87 of the Planning and Development (Local Planning Schemes) Regulations 2015.
60. The City must publish a notice of revocation in accordance with clause 87 of the Planning and Development (Local Planning Schemes) Regulations 2015 for LPPs revoked due to adoption of LPP1.6.

### POLICY IMPLICATIONS

61. Draft LPP1.6 is consistent with SPP 3.7 Planning in Bushfire Prone Areas and associated Guidelines.
62. Draft LPP1.6 aims to consolidate and update relevant provisions from the existing Holiday Accommodation and *Bed and Breakfast* LPPs, with these policies to be revoked following formal adoption of LPP1.6.

Minor general and administrative changes to advertised draft LPP1.6

63. Minor general and administrative changes are proposed to the advertised version of draft LPP1.6:

- Inconsistent wording was used when referring to applications for short-term accommodation, including 'proposals', 'land use proposals' and 'development applications'. The inconsistent terminology has been remedied with the term 'application' now consistently applied throughout the LPP.
- Provision 5 has been amended to explicitly mention 'Short-term accommodation' as an inclusion to the LPP application. This term was not previously mentioned given it captures a number of land uses defined under LPS1, such as Bed and Breakfast, Holiday Accommodation and Holiday House.
- It is considered this amendment will provide more clarity to the policy application and responds to a perceived lack of clarity as to whether the same provisions apply to short-term applications within and outside the identified short-term accommodation area.
- A definition for 'Holiday Accommodation' has also been provided given the reference to this term within provision 5.
- Provision 7 and the associated title (short-term accommodation area) has been amended to remove reference to 'proposals' and infer a slightly more restrictive position in relation to applications outside of the 'short-term accommodation area'.
- Provision 12 was incorrectly included under the heading 'Proposals located outside the short-term accommodation area'. As this provision applies to short-term accommodation both within and outside of the short-term accommodation area, a separate heading has been created for this provision.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation</b> <i>Policy position may make it more difficult to establish short-term accommodation or discourage applications for short-term accommodation.</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>Provisions within the Policy have been drafted to provide consistency with updated legislation and State Planning Polices, and to identify the City's position on minimising the adverse impacts of short-term accommodation on surrounding landowners.</i>
<b>Opportunity:</b> <i>Ensure consistency with legislation and State Planning Polices and encourage a higher standard of short-term accommodation proposal.</i>				

**FINANCIAL IMPLICATIONS**

65. There are no financial implications beyond what will be used for notice of adoption and revocations.

**LEGAL IMPLICATIONS**

66. There are no legal implications relating to adopting LPP1.6.

**ENVIRONMENTAL CONSIDERATIONS**

67. There are no environmental implications relating to adopting LPP1.6.

**ALTERNATE OPTIONS**

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

- To resolve to proceed with the policy without modification;
- To resolve not to proceed with the policy.

## CONCLUSION

69. Submissions received during advertising have been taken into account and resulted in minor modifications proposed to draft LPP1.6, that was previously considered by Council at its Ordinary meeting in June 2022.
70. Based on the discussion above, staff recommend Council resolve to adopt LPP1.6: Short-term Accommodation, with modification.
71. Upon formal adoption of LPP1.6, a notice will be published advising of the revocation of existing *Holiday Accommodation* and *Bed and Breakfast* local planning policies.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme 1</i> 2. <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> 3. <i>Holiday Accommodation Local Planning Policy</i> 4. <i>Bed and Breakfast Local Planning Policy</i> 5. <i>Draft Position Statement: Planning for Tourism</i> 6. <i>Draft Planning for Tourism Guidelines</i> 7. <i>Planning Bulletin 99 – Holiday Homes Guidelines</i> 8. <i>Planning Guidelines – (Holiday Homes) Short Stay Use of Residential Dwellings.</i>
<b>File Number (Name of Ward)</b>	:	All
<b>Previous Reference</b>	:	Strategic Workshop April 2022 Item 3 OCM 21/06/2022 – DIS305

**7.41PM:** Councillor Smith and Councillor Traill returned to the Chamber. Councillor Smith and Councillor Traill were not present during the discussion and vote for this item.

**DIS330: PLANNING AND BUILDING REPORTS NOVEMBER 2022**

**Proponent / Owner** : City of Albany.  
**Attachments** : Planning and Building Reports November 2022  
**Report Prepared By** : Technical Support Officer (P Ruggera)  
**Authorising Officer:** : Manager Planning and Building Services  
(J Van Der Mescht)

**RECOMMENDATION**

**DIS330: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**  
  
**MOVED: COUNCILLOR SUTTON**  
**SECONDED: COUNCILLOR BENSON-LIDHOLM**

**THAT the Planning and Building Reports for November 2022 be NOTED.**

**CARRIED 11-0**

## DIS331: HARDIE ROAD RECONSTRUCTION

<b>Land Description</b>	: Hardie Road, Spencer Park, Albany
<b>Proponent / Owner</b>	: City of Albany
<b>Business Entity Name</b>	: City of Albany
<b>Attachments</b>	: Commercial in Confidence - Confidential Briefing Note under separate cover.
<b>Report Prepared By</b>	: Civil Infrastructure Contract Manager (A Henderson)
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development & Environment (P Camins)

### CONFIDENTIAL ATTACHMENT

*It was recommended that if discussion was required in regards to details contained within the Confidential Attachment, that the matters be discussed behind closed doors, in accordance with section 5.23(2)(c) & (e)(ii) of the Local Government Act 1995, being: a contract which may be entered into and information that has commercial value.*

### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
  - **Pillar:** Place
  - **Outcomes:** 10: A safe, sustainable and efficient transport network.
  - **Objective:** 10.1: Improve road safety, connectivity and traffic flow.

#### In Brief:

- Tender award for the reconstruction of Hardie Road (SLK 0.00 – 0.37) from Angove Road to Reidy Drive.
- 1 (One) complying tender was received, with WCP Civil being the recommended contractor.
- Construction is expected to commence in January 2023 with completion in March 2023.

### RECOMMENDATION

**DIS331: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR BROUGH**  
**SECONDED: COUNCILLOR TERRY**

**THAT Council AWARD Contract C22016 – Hardie Road Entry Statement SLK 0.00 – 0.37 to WCP Civil as recommended by the evaluation panel in the Confidential Briefing Note attached to this report.**

**CARRIED 11-0**

### BACKGROUND

2. Hardie Road is a local distributor road providing access to local shops, health care providers, schools, residents and the local regional hospital.
3. Hardie Road is being upgraded as part of the broader local development plan for the Spencer Park neighbourhood. This enhancement is 100% funded by the Department of Communities.
4. The proposed work involves an upgrade of the existing piped drainage, road surface reconstruction via a mill and fill program, new kerbs, concrete footway and the installation of street trees. These works also include Mokare Road from Hardie Road to Nind Street.



5. Design and specification documentation was prepared by the City of Albany to the stage of 'Issued for Tender'.
6. The first tender was open from 24th August to 14th September 2022. No tenders were received during this opening.
7. Slight changes to the scope of work were made and a tender was re-issued on 28<sup>th</sup> October 2022, closing on 23<sup>th</sup> November 2022.

## DISCUSSION

8. A total of 11 (eleven) tender documents were issued by City of Albany.
9. 1 (one) complete tender document was submitted on or before the stipulated closing date and time.
10. The tenders were evaluated using the weighted attributes methodology. This method scores the evaluation criteria and weights their importance to determine overall points score for each tender. The criteria are tabled below:

Criteria	% Weighting
Cost	25%
Relevant Experience	20%
Key Personnel Skills and Experience	20%
Demonstrated Understanding	20%
Tenderers Resources	10%
Corporate Social Responsibility	5%
<b>Total</b>	<b>100%</b>

11. The following table summarises the tenderers and their weighted scores:

Tenderer	Weighted Score
WCP Civil	630

## GOVERNMENT & PUBLIC CONSULTATION

12. The Department of Communities have been responsible for all public consultations and engagements with the public via an external consultant and stakeholder working group.
13. The City of Albany will inform and engage with relevant stakeholders whilst construction works are undertaken.
14. A request for tenders was published in the West Australian on the 28<sup>th</sup> September and the 19<sup>th</sup> October 2022, The Extra on the 30<sup>th</sup> September 2022 and the 21<sup>st</sup> October 2022.

## STATUTORY IMPLICATIONS

15. Regulation 11 of the Local Government (Functions and General) Regulations 1996 (Regulations) requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$250,000.
16. Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.

17. Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council's decision.

### **POLICY IMPLICATIONS**

18. Councils Purchasing Policy (Tenders & Quotes) and Buy Local Policy (Regional Price Preference) are applicable to this item.

### **RISK IDENTIFICATION & MITIGATION**

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

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<b>People Health and Safety</b> <i>A pedestrian accident occurs due to poor geometry, road condition and lack of dedicated pathway.</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Upgrade road and install dedicated pathway as funding is available.</i>
<b>Finance</b> <i>Non-compliance with contract or business failure</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Standard general conditions of contract protect the City by allowing for contract termination on the basis of failure to supply goods and services.</i>

### **FINANCIAL IMPLICATIONS**

20. The value of this tender is in excess of \$500,000 and therefore approval is referred to Council for consideration.
21. More detailed information regarding the financial implications are contained in the Confidential Briefing Note.
22. The Hardie Road Entry Statement is fully funded by the Department of Communities.

### **LEGAL IMPLICATIONS**

23. There are no legal implications associated with this item.

### **ENVIRONMENTAL CONSIDERATIONS**

24. No permits are required for this project.

### **ALTERNATE OPTIONS**

25. The options are:
- Council may elect to accept the recommended tender; or
  - Not approve any tender.

### **CONCLUSION**

26. It is recommended, based on the evaluation scoring, clarification and financial check processes that the tender be awarded to WCP Civil.

<b>Consulted References</b>	<ul style="list-style-type: none"> <li><i>Local Government (Functions and General) Regulations 1995</i></li> <li><i>Council Policy – Purchasing</i></li> <li><i>Council Policy – Buy Local (Regional Price Preference)</i></li> </ul>
<b>File Number (Name of Ward)</b>	C22013
<b>Previous Reference</b>	N/A

**AR123: ANNUAL FINANCIAL REPORT – 30 JUNE 2022**

<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: City of Albany Annual Financial Report for the year ended 30 June 2022
<b>Report Prepared By</b>	: Manager Finance (S van Nierop)
<b>Authorising Officer:</b>	: Executive Director Corporate & Commercial Services (M Gilfellon)

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan:
  - **Pillar:** Leadership.
  - **Outcome:** Strong workplace culture and performance.

**IN BRIEF:**

- The Annual Financial Report for the financial year ending 30 June 2022 is being presented to review and receipt.

**ADDENDUM**

**AR123: ADDENDUM**

Post the audit exit meeting held on 14 November 2022, between the City of Albany, KPMG, and the Office of the Auditor General, the finalised Annual Financial Report for the year ended 30 June 2022 was received.

Attached is the finalised Annual Financial Report for the year ended 30 June 2022.

There are no legal implications related to this report.

**RECOMMENDATION**

**AR123: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR TERRY**  
**SECONDED: COUNCILLOR STOCKS**

**THAT the City of Albany Annual Financial Report for the year ended 30 June 2022 be RECEIVED.**

**CARRIED 11-0**

**Officer Comment:** Removal of Draft, noting addendum.

**AR123: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the DRAFT City of Albany Annual Financial Report for the year ended 30 June 2022 be RECEIVED.**

**AR123: COMMITTEE RECOMMENDATION**

MOVED: COUNCILLOR STOCKS  
SECONDED: MAYOR WELLINGTON

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 5-0

**AR123: AUTHORISING OFFICER RECOMMENDATION**

THAT the DRAFT City of Albany Annual Financial Report for the year ended 30 June 2022 be RECEIVED.

**BACKGROUND**

2. An Annual Financial Report is required to be compiled and subsequently audited, under the Local Government Act 1995 (the Act) and various Local Government regulations.

**DISCUSSION**

Financial Audit

3. An onsite visit and audit of the City's financial statements and Annual Financial Report for the financial year ended 30 June 2022 was conducted by employees of KPMG on behalf of the Office of the Auditor General.
4. The Audit Exit Meeting between the City of Albany, KPMG, and the Office of the Auditor General, has been scheduled for 5:00pm on Monday 14th November 2022.
5. Once received, the final audited and signed Annual Financial Report is to be presented to Council at an Ordinary Council Meeting.

Annual Report

6. The City is in the process of finalising the section of the Annual Report, which provides an overview of the City's operations, and compliance with policy and legislation as required by the Act and associated regulations.
7. The additional information that will be presented with the finalised Annual Financial Report provides an overview of the operations, activities and major projects undertaken by the City for the period, and includes major initiatives proposed to commence or to continue in the next financial year.
8. The performance of the Council is assessed against the City of Albany Strategic Community Plan and the actions contained in the Corporate Business Plan.
9. These plans provide strategic focus for elected members and the organisation and affirms our commitments to the community.

**GOVERNMENT & PUBLIC CONSULTATION**

10. Public consultation will be facilitated through the convening of an Annual Meeting of Electors, which will be held as soon as practicable after the finalised Annual Report has been accepted by the local government.

## STATUTORY IMPLICATIONS

11. In accordance with section 7.9 of the Act, an audit is required to examine the accounts and Annual Financial Report prepared for the Mayor, the CEO and the Minister.
12. Under the Audit and Risk Committee Terms of Reference, the committee is to review the financial audit report and make appropriate recommendations to Council.
13. Section 5.54 of the Act, states in part:

*“The Annual Report (which includes auditor’s report) is to be accepted by the local government no later than 2 months after the auditor’s report becomes available”.*

## POLICY IMPLICATIONS

14. There are no policy implications related to this item

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Operational:</b> <i>The Annual Financial Report is not accepted by the Audit &amp; Risk Committee.</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>The Audit &amp; Risk Committee and City Officers work with the auditors to address areas of concern to come to a position of acceptance.</i>

## FINANCIAL IMPLICATIONS

16. There are no budget financial implications related to this report.

## LEGAL IMPLICATIONS

17. The City is yet to receive the auditor’s report, therefore there it is unknown whether or not there are legal implications related to this report.

## ENVIRONMENTAL CONSIDERATIONS

18. There are no direct environmental considerations related to this item.

## ALTERNATE OPTIONS

19. The Committee may recommend to Council to accept or reject the Annual Financial Report.

## CONCLUSION

20. It is recommended that the Authorising Officer’s Recommendation be adopted.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>Local Government Act 1995 (the Act);</li> <li>Local Government (Administration) Regulations 1996,</li> <li><a href="#">Operational Guideline No. 9-Appointment, Function and Responsibilities of Audit Committees</a></li> </ul>
<b>File Number (Name of Ward)</b>	:	<ul style="list-style-type: none"> <li>IM.PUB.19 (All Wards) – Publication - Annual Report – City of Albany</li> <li>FM.MEE.3 (All Wards) – Meetings – Audit &amp; Risk Committee</li> </ul>
<b>Previous Reference</b>	:	<ul style="list-style-type: none"> <li>Audit &amp; Risk Committee 29/11/2021 Report AR101.</li> <li>OCM 14/12/2021 Resolution AR101.</li> </ul>

14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL** Nil
15. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN** Nil
16. **REPORTS OF CITY OFFICERS** Nil
17. **MEETING CLOSED TO PUBLIC** Nil
18. **CLOSURE**

There being no further business the Mayor declared the meeting closed at **7.43PM**.

*(Unconfirmed Minutes)*

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Dennis W Wellington  
**MAYOR**

**TABLED ADDRESS BY MR JON DOUST**

Yakamia Boodja, 13 December, 2022

Jon Doust, 132 Angove road, Spencer Park, on the cusp of Yakamia. My respects to Noongar Menang, past, present and coming through.

Councillors, Mayor, thank you.

Thought I would update you all on Yesterday, when the ship came in, the Silver Muese, an ultra luxury cruise liner with 596 passengers. Noongar Menang man Larry Blight and I took 45 of them out to Torndirrup National Park where they wandered to the Gap and the Natural Bridge.

Most on our bus were folk from the East, Eastern States that is. Already many were saying, how come we never heard of this place? Such beauty, such majesty.

We took them around Albany, regaling them with tales of old and new and of course the natural wonders.

They loved Corndirrup, the views they said, oh the views, the landscape, the vegetation, how have you managed to preserve so much. Then we got up to Irreup and the National Anzac Centre.

Again, raves. Then, embarrassment. Garrison – closed. Bookshop – closed. Cart to take the unsteady up the hill – locked up.

Nathan Watson and I have already had a useful conversation about the issues. So let's hope we can resolve them and that when tourists arrive we don't look like some 1970s hick town reluctantly accepting visitors.

In the languages of some of those on the bus, thanks, Merci, danku vel, danke, dy-aku-tobi, mamnoon.

**TABLED ADDRESS BY ANNABEL PAULLEY**

Good evening Mayor and Councillors

My name is Annabel Paulley of 38 Parker Street, Lockyer.

I acknowledge the traditional owners of this boodja on which we are meeting, the Menang people and Elders.

I would like to follow up on the Friends of Yakamia Forest Boodja's submission on the draft Albany Local Planning Scheme No 2 which was emailed to the Mayor and Councillors last week.

We are requesting that the laterite forest and bushland on Lot 4743, 102 North Road, Yakamia be rezoned, preferably to a Class A Reserve or other reserve which gives this valuable forest and bushland full protection from development into the future.

The new zone classification of 'Environmental Conservation' does not give full protection from development because it still allows a single dwelling, an ancillary building, such as a shed, and telecommunications infrastructure to be built.

With the Bushfire Attack Level (BAL) requirements, around 20 metres of vegetation would have to be cleared around any home and shed, so the 'Environmental Conservation' zoning is definitely not appropriate for Lot 4743.

In closing, the Friends of Yakamia Forest Boodja look forward to continuing communication with Council, and we hope and pray for improved and positive outcomes for the Yakamia forest and bushland in 2023 and beyond.

Thank you.