

**CCS319: SPECIAL ELECTORS' MEETING**

- Attachments** : Unconfirmed Minutes of Special Electors' Meeting held 08 December 2020.
- Report Prepared By** : Manager Governance and Risk (S Jamieson)  
Manager Major Projects (A McEwan)  
Executive Director Infrastructure, Development and Environment (P Camins)
- Responsible Officers:** : 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:
- **Themes:** Leadership; Smart, prosperous and growing; Clean, Green and Sustainable; Community Health and Participation.
  - **Community Priorities:**
    - Provide positive leadership that delivers community outcomes.
    - Promote the “*Amazing South Coast*” region as a sought after and iconic tourism destination to increase the number of people visiting and the duration they stay.
    - Sustainably protect and enhance our iconic coastline, reserves flora and fauna by delivering projects and programs that reflect the importance of our coastline and natural reserves.
    - Design, construct and maintain infrastructure cost effectively in a manner that maximises its life, capacity and function.
    - Maintain infrastructure and deliver programs that promote Albany’s unique heritage, engender civic pride and leave a lasting memory.
  - **Objectives:**
    - To provide strong, accountable leadership supported by a skilled and professional workforce.
    - To develop and promote Albany as a unique and sought after visitor location.
    - To protect and enhance our natural and built environment in a changing climate.
    - To build, maintain and renew city assets sustainably.
    - To create interesting places, spaces and events that reflect our community’s identity, diversity and heritage.

**In Brief:**

- In accordance with the *Local Government Act 1995* Council are required to consider any motions from an electors meeting at the next Ordinary Council Meeting.

**RECOMMENDATION**

**DRAFT MOTION**

**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT** in accordance with clause 3.5 of the *City of Albany Standing Orders Local Law 2014* Report Item CCS319: Special Electors' Meeting be **ACCEPTED** for consideration by Council as an urgent item.

**Responsible Officer Comment:**

In accordance with s5.33 of the *Local Government Act 1995*, all decisions made at an electors' meeting are to be considered at the next ordinary council meeting.

**CCS319: RESPONSIBLE OFFICER RECOMMENDATION 1  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the following decisions of the Special Electors' Meeting held on Tuesday 08 December 2020 be RECEIVED.**

1. **THAT the City of Albany submit documentation to the ratepayers of the City of Albany to substantiate claims that public consultation was undertaken with regard to removal of the pine trees.**
2. **THAT the City of Albany publicly advertises the proposed tree removal at Middleton beach, with plans that depict the trees to be removed, to provide an opportunity for public comment prior to removal.**
3. **THAT the City of Albany take no action to remove the 9 Norfolk Island pine trees and amend plans to include them in the upgrades.**
4. **THAT the City of Albany retain the Norfolk Island pine tree noting that it is an essential part of the history and character of Middleton Beach.**
5. **THAT the City of Albany employ a Norfolk Island pine specialist arborist to liaise and advise during the site works to ensure the health of the trees is not compromised.**
6. **THAT the City of Albany take immediate steps to nurture and care for the Norfolk pine trees.**
7. **THAT the City of Albany remove the asphalt from around the base of the Norfolk Island pine trees in the carpark.**
8. **THAT the City of Albany improve the drainage around the base of the Norfolk Island pine trees.**
9. **THAT the City of Albany discontinue the use of glyphosate or other harmful substances around the Norfolk Island pine trees.**
10. **THAT the City of Albany look at the Scarborough Beach development for guidance on how to successfully develop a carpark.**
11. **THAT the City of Albany investigate the use of hot steaming to control weeds in the carpark.**

**Responsible Officer Comment:**

The decisions made at the Elector's meeting that require a decision are addressed in the report.

Responsible Officer Recommendations for Council consideration follow.

**CCS319: RESPONSIBLE OFFICER RECOMMENDATION 2  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council NOTE the consultation undertaken to remove nine Norfolk Island pine trees from the Flinders Parade carpark and one Norfolk Island Pine tree adjacent to Three Anchors as detailed in the Officer's Report.**

**Responsible Officer Comment:**

2. There has been significant consultation on the Middleton Beach Foreshore Enhancement project since 2018 and prior with the 2014 Coastal Parks Enhancement Plan. The carpark was not specifically included as there was no intention to do any work on it as it was unfunded and not necessarily seen as part of the foreshore.
3. The Foreshore Management Plan was informed in a statutory and policy context and a compilation of previous work, including:
  - o 2014 Coastal Parks Enhancement Plan
  - o 2015 Coastal Hazard Risk Management and Adaptation Plan
  - o 2017 Urban Tree Strategy, City of Albany
  - o 2018 Middleton Beach Landscape Management Plan, City of Albany
4. In 2018, the scope for the Middleton beach Foreshore Enhancement project was defined through a grant agreement between the Commonwealth and State Governments, Development WA (formerly Landcorp) and the City of Albany.
5. The conceptual plans were subject to a design development and detailed design process to further determine technical parameters, identify constraints and refine costs.
6. There were no less than 5 Community Information Sessions held regarding the Middleton Beach Foreshore Enhancement Project since the initial session in April 2018 and details of the project have been regularly updated since that time on the City of Albany website.
7. City officers have also had numerous direct engagements with individuals and small groups over the journey. Wherever possible concerns expressed by the community and submissions made have been considered within the scope of the individual project consultation, design and expert advice. Plan improvements have been made readily available to the community at key stages.
8. During the earlier consultation period, the community (and particularly the Middleton Beach Group) asked for greater biodiversity and additional native planting to create a native corridor.
9. In August 2020, the WA State government provided the City of Albany with additional funding to improve accessibility and amenity for the carpark which was identified as being very important in the earlier consultation.
10. The City of Albany's Communications & Engagement Strategy 2019-2022 (developed over a year in consultation with the community), provides clarification around non-negotiable circumstances where the City will be constrained in meeting best practice or community expectations in regards to engagement. This includes instances such as funding limitations and timelines which are applicable to this project.
11. City officers met with directly impacted residents of Middleton Beach through the Middleton Beach Group (approximately 10-12 people) in early October and informed them of the new funding and the project expansion including the proposed removal of ten trees.

12. Subsequently, City officers were invited to a larger community group meeting on 30 October 2020 with approximately 80 attendees at the open air Hotel site. At this community meeting City staff advised of the carpark works including the proposed removal of ten trees. The information has also been available on the City's website as it became available.

**CCS319: RESPONSIBLE OFFICER RECOMMENDATION 3  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the City of Albany PROCEED with the planned removal of nine Norfolk Island pine trees from the Flinders Parade carpark, and one Norfolk Island pine tree adjacent to Three Anchors.**

**Responsible Officer Comment:**

13. The nine Norfolk Island Pines in the Flinders Parade carpark have not been planted to current standards that promote healthy or safe growth in a carpark environment.
14. One tree at Three Anchors will also be removed as it is interfering with services and accessibility to the area.
15. The trees earmarked for removal are in poor condition and not thriving in the carpark environment (especially by comparison with the great majority of the Norfolk Island Pines that grow in Albany), are undermining infrastructure and making it unsafe for drivers and pedestrians. It is likely that without major intervention, these problems will perpetuate and worsen.
16. The cost of transplanting these pines is not viable within the project budget and would be inordinately greater than their amenity value.
17. The measures and works required to provide adequate space and treatment to improve the health of the trees and enable them to expand into an appropriate zone would result in the loss of an estimated 24 parking bays.
18. The location of the Norfolk Island Pines in the carpark constrains the ability to construct a well-circulating carpark and the installation of lighting and pedestrian access through the carpark.
19. Mr John Banks (a retired experienced Arboricultural consultant) who presented at the Council Committee meeting held on 10 November 2020 has suggested that a practising specialist Arboriculture Consultant be engaged to consider the best replacement tree options. The City will consult with such a specialist prior to planting any replacement trees.
20. It is intended to plant more trees than are being removed throughout the carpark, using recommended planting techniques with root barriers and tree pits.
21. Diversity of tree planting and species selection is critical to ensure the sustainable health and longevity of our urban tree network, consistent with the principles of the City of Albany's Urban Tree Strategy 2017. In accordance with this strategy "public safety is a priority, and trees will be removed where necessary."
22. Tree removal and replacement programs ensure the benefits of a diverse mix of trees are kept for future generations.
23. Using the principles identified during consultation, the works planned will allow the City to utilise additional funding received from the WA State Government to create a better outcome for the community in this carpark.

## **BACKGROUND**

24. A petition was received by the City of Albany on Tuesday 17 November 2020, requesting that a Special Electors' Meeting be held to discuss the proposed removal of 9 Norfolk Island pine trees from the Flinders Parade carpark, Middleton Beach.
25. A Special Meeting of Electors' was convened on 08 December 2020 in accordance with Section 5.28 of the *Local Government Act 1995*.
26. At the Special Electors' Meeting on 8 December 2020, eleven motions were made by electors.
27. In accordance with section 5.33 of the Act, those motions are now presented to Council for consideration.

## **DISCUSSION**

28. Stage 1 of the Middleton Beach Foreshore Enhancement Project saw the successful implementation of a sea wall as part of coastal protection measures.
29. Stage 2 of the Middleton Beach Foreshore Enhancement project will include the provision of service infrastructure, promenade treatments, enhancement of public facilities, access and event space creation.
30. The City's priority has always been to retain and protect the existing character of the area. Every effort has been made to minimise impact on the trees and retain the majority of the trees while still achieving the coastal protection and public realm enhancements.
31. With the announcement of additional funding from the WA State government in August 2020, the City was able to plan and implement an expansion and upgrade of the Flinders Parade carpark at Middleton Beach.
32. Improved accessibility and amenity for the carpark was identified as being very important in the earlier community consultation.
33. Flinders Parade carpark enhancement works added to the scope of Stage 2 include:
  - Demolition works, including kerbing and road surface (part), some tree removal and pruning;
  - Improved vehicle circulation (2 way) and access, safer entry/egress for maintenance, delivery, bus and emergency drop-off zones;
  - Carpark expansion (southern end), reconfigured parking bays (wider) and greater provision of compliant ACROD bays;
  - Improved and safer pedestrian access paths and connections;
  - New electrical and lighting services;
  - Improved drainage, new surfacing (in-part) and kerbing;
  - Perimeter planting areas (irrigated) and new tree plantings.
34. The design proposes that nine existing Norfolk Island pine trees within the Flinders Parade carpark be removed and replaced with new trees of appropriate species. It is also proposed that one Norfolk Island pine tree located adjacent to Three Anchors be removed as it is interfering with planned essential services and accessibility to the area.

36. Optionally, Council could consider not removing the three trees within the Flinders Parade road reserve. Modification of the current carpark design would need to be made to accommodate the retention of three Norfolk Island pine trees on the western carpark perimeter with the potential loss of parking bays. Root barriers would need to be retrospectively installed on the carpark side of the trees which may assist in reducing damage to infrastructure by the trees in years to come.
37. Whilst these Norfolk Island Pine trees are considered to be in better health they are not considered to be historic or iconic as they are relatively new plantings (circa 1995).
38. Consistent with the City's Urban Tree Strategy and submissions received from the community, the proposal is to replace trees with appropriate species that will encourage biodiversity and connect communities via green links. Tree removal and replacement programs ensure the benefits of a diverse mix of trees are kept for future generations.
39. Diversity of tree planting and species selection is critical to ensure the sustainable health and longevity of the City's urban tree network. Proposed tree planting will need to carefully consider tree location, species, suitability and diversity.

#### **GOVERNMENT & PUBLIC CONSULTATION**

40. Detailed in the discussion section of the report.

#### **STATUTORY IMPLICATIONS**

41. Part 5, Division 3 of the *Local Government Act 1995*, section:

5.33 Decisions made at electors' meetings

- 1) All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable –
    - (a) At the first ordinary council meeting after that meeting; or
    - (b) At a special meeting called for that purpose,whichever happens first.
  - 2) If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for that decision are to be recorded in the minutes of the council meeting.
42. The decisions made at the Elector's meeting that require a decision are addressed in the report.

#### **POLICY IMPLICATIONS**

43. There are no direct policy implications related to this report, noting the recommended course of action is aligned to the City's Urban Tree Strategy.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p><b>Business Operation, Reputation &amp; Financial.</b> Retaining the pine trees will impact the upgrade and progress the funded project to redevelop the subject area. Project delay may jeopardise current funding received from the State government in August 2020 (\$1.1 million) and future funding applications.</p>	Likely	Moderate	High	<p>Noting the proposed course of action, detailed in the Officer’s Report, it is recommended that the project is progressed and the subject trees removed, and acknowledging the most suitable construction time period is limited for civil works of this type.</p>
<p><b>Property, Public Health and Safety:</b> The roots of the subject Norfolk Island pine trees have damaged the surrounding carpark, presenting a trip hazard. <b>Legal &amp; Compliance:</b> Failure to rectify an identified hazard may have future public liability implications.</p>	Possible	Major	High	<p>Proceed with the recommended course of action, noting the removal of the pine trees will mitigate identified hazards.</p> <p>Removal of the pine trees will facilitate the progress of the project and associated carpark resurfacing.</p>
<p><b>Opportunities:</b></p> <ul style="list-style-type: none"> <li>Replacement of the pine trees, which are in poor health, with more suitable species is aligned to the City’s Urban Tree Strategy, and will contribute to providing a diversified habitat for local fauna.</li> <li>Allow the City to complete the upgrade and expansion of the Flinders Parade carpark, leveraging State government funding to deliver better community access to the precinct through the provision of additional car parks.</li> <li>Support the objectives of the City’s Access and Inclusion Plan 2018 - 2022, through the provision of increased access for persons with disabilities, noting the key issues and barriers identified through consultation were:  <p>“Inadequate accessible parking, including non-ACROD parking marked for seniors and frail aged... Difficulty with physical access at City events, in particular parking/drop off points, and easy to find, clearly signed public amenities”.</p> </li> </ul>				

**FINANCIAL IMPLICATIONS**

- 45. The City received funding of \$1.1 million from the WA State government in August 2020 to upgrade and expand the Flinders Parade carpark to improve accessibility and amenity, as part of the northern landscape corridor.
- 46. The grant agreement stipulates that the City of Albany must provide a progress report on the project by 30 June 2021, and the project must be completed and acquitted by 31 December 2021. All unspent funds must be returned.
- 47. In order to meet the acquittal, the City must construct the carpark this summer to tie in the balance of the site.
- 48. The most suitable construction time period is limited for civil works of this nature.

**LEGAL IMPLICATIONS**

49. There are no legal implications related to this report, noting:
- a. The law says the City must hold a meeting.
  - b. The request (Petition) to hold a Special Meeting of Electors has been met.

**ENVIRONMENTAL CONSIDERATIONS**

50. The recommended course of action is consistent with the City’s Urban Tree Strategy and supports the submissions received from the community to replace the subject trees with appropriate species.
51. Suitable species will encourage natural biodiversity and connect wildlife communities via green links.
52. Tree removal and replacement programs ensure the benefits of a diverse mix of trees are kept for future generations.
53. The majority of the trees proposed to be removed are in poor condition and/or not thriving in the carpark environment especially by comparison with the greater majority of the Norfolk Island Pines that grow in Albany, undermining infrastructure and making it unsafe for drivers and pedestrians. It is likely that without major intervention, these problems will perpetuate and worsen.
54. Diversity of tree planting and species selection is critical to ensure the sustainable health and longevity of the City’s urban tree network. Proposed tree planting will carefully consider tree location, species, suitability and diversity.
55. Prior to planting trees in the new locations, the City will engage a practising specialist Arboriculture Consultant to consider the best replacement tree options.

**ALTERNATE OPTIONS**

56. Council may consider retaining the three trees within the Flinders Parade road reserve. Modification of the current carpark design would need to be made to accommodate the retention of those three trees on the western carpark perimeter with the potential loss of parking bays.

**CONCLUSION**

57. The purpose of the Foreshore Enhancement Project is to develop a precinct at Middleton Beach that will provide maximum useability and create an area that the community and visitors can be proud of. Within the foreshore reserve, there has been extremely significant efforts made in design development to ensure the iconic foreshore Norfolk Island Pines are almost all retained.
58. It is considered that there are better tree options for the Flinders Parade carpark and the removal of the struggling Norfolk Island Pines will provide significantly better parking and pedestrian accessibility and amenity.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• Communications &amp; Engagement Strategy 2019-2022.</li> <li>• <a href="#">Access and Inclusion Plan 2018 – 2022.</a></li> <li>• <a href="#">Urban Tree Strategy 2017.</a></li> <li>• <a href="#">Age Friendly Albany Plan</a></li> </ul>
<b>File Number (Name of Ward)</b>	:	Frederickstown
<b>Previous Reference</b>	:	Special Electors’ Meeting held on Tuesday 08/12/2020.