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# MINUTES

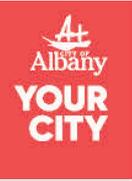
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**Ordinary Meeting of Council**

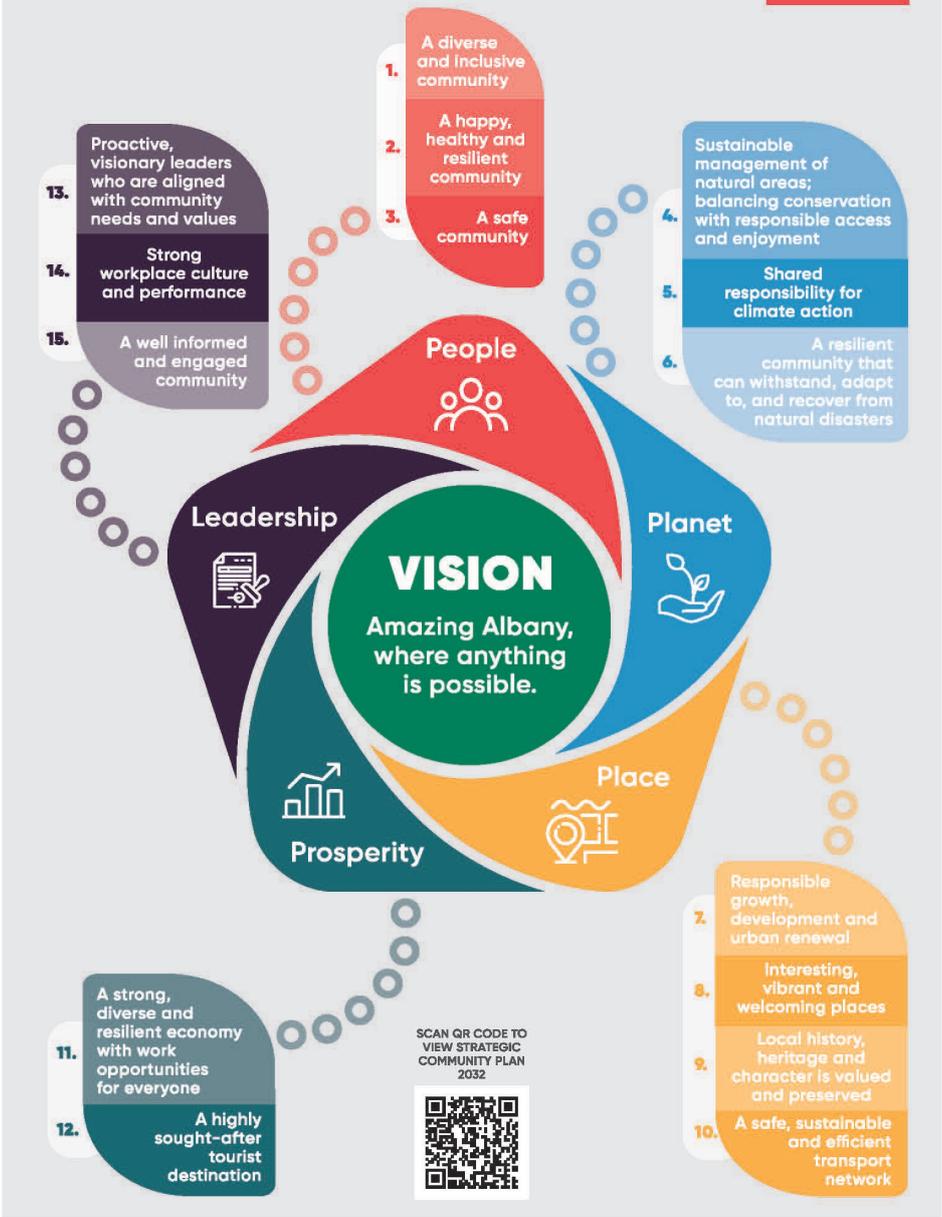
**Tuesday 26 September 2023**

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
<b>Councillors:</b>	
Deputy Mayor, Councillor	S Smith
Councillor	P Terry
Councillor	A Cruse
Councillor	G Stocks
Councillor	T Brough
Councillor	J Shanhun
Councillor	S Grimmer
Councillor	D Baesjou (Arrived at 6.10pm)
Councillor	M Benson-Lidholm JP
Councillor	R Sutton (Arrived at 6.03pm)
Councillor	C Thomson
 <b>Staff:</b>	
Chief Executive Officer	A Sharpe
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
 <b>Apologies:</b>	
Councillor	M Traill (Leave of Absence)
Executive Director Corporate & Commercial Services	M Gilfellon (Apology)

**4. DISCLOSURES OF INTEREST**

Name	Report Item Number	Nature of Interest
Councillor Shanhun	DIS366	<b>Financial.</b> The nature of the interest being that Councillor Shanhun is employed part time by one of the tenderers at the Great Southern Museum. Councillor Shanhun left the Chamber and was not present during the discussion and vote for this item.

## 5. REPORTS OF MEMBERS

Mayor Wellington announced that Deputy Mayor Councillor Smith and Councillor Shanhun had both been awarded Eminent Service Awards at the recent WALGA Local Government Convention.

The Mayor also announced that the City of Albany had been recognised with an award for the longest term of sponsorship for the ArtSouthWA Southern Art and Craft Trail.

### **6.03pm Councillor Cruse**

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

Councillor Cruse commented that this was the last night that Council would be meeting in its current form. Councillor Cruse said that the current Council have worked together very well, and that it has been a privilege to serve under the leadership of Mayor Wellington and Deputy Mayor Smith, who have been generous in their support and guidance.

Councillor Cruse also thanked Councillor Terry as her Ward partner, who she said is an astute and hardworking councillor. Councillor Cruse wished those elected members standing for re-election well.

**6.04pm** Councillor Sutton entered the Chamber.

### **6.04pm Councillor Terry**

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

Councillor Terry congratulated those elected members whose terms are expiring on their service to the City of Albany. Councillor Terry said that the Council had made great achievements over the last 8 years, and expressed hope that the new Mayor will preside over a functional and high achieving Council.

Councillor Terry acknowledged the recent passing of Mr Ken Ewers-Verge and paid tribute to Mr Ewers-Verge for his outstanding contribution to the community, including his many years of volunteering.

Representing Mayor Wellington, Councillor Terry attended the Southern Peaks Pump Track Event which attracted 65 competitors aged from 4 to 54, and also attended the 25<sup>th</sup> Anniversary event for the Bibbulmun Track

Councillor Terry said the Great Southern Art and Craft Trail provides an opportunity for Councillors to meet local residents and listen to their issues and feedback, and 40 years ago today Australia II won the Americas Cup. This was a huge event for Australia and worth remembering.

### **6.08pm Councillor Stocks**

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

Councillor Stocks acknowledged Mayor Wellington and his 20 years of service to the Albany community as a beacon and a leader, a person for the times who brought stability and cohesiveness to Council. Councillor Stocks said that Mayor Wellington's motto of 'If it's good for Albany we should do it', had been a catalyst for some great outcomes for Albany. Councillor Stocks said that Mayor Wellington had been an outstanding servant of the people of Albany.

Council have been prudent in making financial decisions, and the outcome of those decisions has reduced the City's debt from \$25m to \$8m, with \$40m in Reserves leaving the City in a very strong financial position.

Councillor Stocks also paid tribute to Deputy Mayor Councillor Sandie Smith, who has made an outstanding contribution to Council and the City of Albany. Councillor Stocks said that Councillor Smith will be greatly missed.

To Councillors standing for re-election, Councillor Stocks said that it had been a great honour to work with them, and wished them well.

**6.10pm** Councillor Baesjou entered the Chamber.

**6.11pm Councillor Brough**  
**Summary of key points:**

Councillor Brough thanked Mayor Wellington and Deputy Mayor Councillor Smith for their service and wished candidates in this election good luck. Councillor Brough noted that this meeting is the last where the Ward System is in place.

Councillor Brough expressed concern for local farmers with the slump in sheep prices caused by the phasing out of the live sheep export trade. Councillor Brough said that the City of Albany should consider what support or advocacy could be provided for affected local farmers.

Councillor Brough attended a Men's Night recently and relayed some comments made by an attendee about recent interactions with the ANZ Bank. Upon visiting the branch, the customer noted that the teller was wearing a Peoples Republic of China tiepin. The comments made by the customer to the teller regarding the economic sanctions by China against Australian Primary Producers were apparently not appreciated by ANZ who subsequently wrote to the customer advising that their behaviour was unacceptable and that the customer risked having their accounts cancelled should they continue to express their views when visiting the ANZ bank.

**6.15pm Councillor Benson-Lidholm**  
**Summary of key points:**

Councillor Benson-Lidholm thanked Mayor Wellington for his service and Deputy Mayor Councillor Smith for her contribution.

Councillor Benson-Lidholm said that it had been a privilege to represent the Kalgan Ward and that if re-elected he would continue to work on behalf of those residents in the Kalgan Ward.

Councillor Benson-Lidholm attended the event marking the 25<sup>th</sup> Anniversary of the Bibbulmun Track, and also visited exhibitions that were part of the Great Southern Art and Craft Trail.

**6.19pm Councillor Sutton**  
**Summary of key points:**

Councillor Sutton apologised for his late entry to this meeting, having just returned from Exmouth and wanting to be present for the last meeting that Mayor Wellington would preside over. Councillor Sutton expressed his gratitude to Mayor Wellington for his support of the Great Southern Motorplex, and said that the Anzac Commemorations were a tipping point for Albany to enter a new realm. Councillor Sutton said that being on Council was a brilliant journey, and that Mayor Wellington has led well and taken the team along for the journey, creating one of the most successful periods for Council and the City of Albany.

Councillor Sutton thanked Councillor Smith for undertaking the role of Deputy Mayor, for being a great listener and contributor to Council. Councillor Sutton wished all candidates contesting this election the best of luck.

Councillor Sutton said that the stability of council is of the utmost importance, and experience is the key.

**6.23pm Councillor Thomson**  
**Summary of key points:**

Councillor Thomson expressed the view that it is not always necessary to agree, and Councillors will always have different priorities amongst their cohort. Councillor Thomson likened the current election to a cage fight.

Councillor Thomson thanked Councillor Sutton for his support in his first term as a Councillor for the Yakamia Ward.

Councillor Thomson said that Council should focus on government aid to the local sheep industry.

**6.27pm Councillor Grimmer**  
**Summary of key points:**

Councillor Grimmer acknowledged and thanked Mayor Wellington and Deputy Mayor Smith for their service. Councillor Grimmer said that with a growing population and a reduction in the number of elected members and the abolition of the ward system the workload for Councillors would increase, but he was hopeful that Council would continue to engage effectively with the community. Councillor Grimmer wished all candidates well in this election.

**6.29pm Deputy Mayor Councillor Smith**  
**Summary of key points:**

Representing the Mayor, Councillor Smith attended a recent education conference held in Manjimup. The conference explored the concept of a full service school which, in addition to providing education also features a General Practitioner and a mental health professional on campus.

Also discussed was a review of the post-secondary pathway and university hubs. Councillor Smith said with a proposed \$6.4b education budget and \$1.2b budgeted for capital works expenditure the education sector should see some exciting changes.

Councillor Smith also attended the ArtSouth WA 20<sup>th</sup> Anniversary event for the Great Southern Art and Craft Trail. There are over 400 artists exhibiting work in this year's Trail including 18 schools across the Great Southern region. Torbay Glass received an award as the longest exhibitor, and Ms June Smith received an award for the longest serving Board Member. The Board volunteer up to 2,000 hours each year to run the Great Southern Art Trail.

Councillor Smith attended the annual WALGA convention. The Convention featured an historic signing of a five-year, \$1.38 billion Roads Funding Agreement between WALGA and the Department of Transport, which will be funded using 20% of the State revenue generated by vehicle registration fees.

Councillor Smith also expressed her most sincere condolences to the family of Mr Ken Ewers-Verge who passed away recently. Mr Ewers-Verge is recognised as a tireless volunteer in the community. He will be missed.

Councillor Smith also attended the Free Family Fun Day at Bornholm Hall.

Councillor Smith thanked Mayor Wellington and Councillor Stocks for their support and mentorship, the Executive Management Team, the Manager of Governance Risk and all elected members for working together and achieving outstanding results for the community. Councillor Smith wished all candidates in this election and those Councillors remaining on Council the very best for the future.

**6.35pm Councillor Baesjou**  
**Summary of key points:**

Councillor Baesjou congratulated and thanked the Mayor and those Councillors whose terms are expiring on 21 October 2023 for their contribution to the City.

**6.35pm Councillor Shanhun**

**Summary of key points:**

Councillor Shanhun said that in the midst of such a busy time it was very rewarding to attend a Church Service on Sunday, which was a time for reflection and gratitude.

Councillor Shanhun said that he should have been on a fire truck this evening providing support to his fellow Volunteer Bush Fire Brigade colleagues as they fight two fires in Albany. Councillor Shanhun said that his thoughts were with the crews trying to control bush fires in the Gunn Road and Down Road area.

Councillor Shanhun also reflected on his time on Council and how the Council had come together on those issues which were contentious.

Councillor Shanhun said that time spent on training and professional development is vital to function effectively as a Councillor, and that he had the greatest respect for staff and the information and advice that they provided. With Council and staff working closely together, Councillor Shanhun said that he was very excited about the possibilities for the future.

So many great things have been achieved for local communities, including sporting and play facilities, coastal protection, waste management and much more. Volunteer bush fire brigades are better equipped and supported.

Councillor Shanhun praised Deputy Mayor Councillor Smith's exceptional depth of knowledge and leadership and said it has been a pleasure to work with all Councillors as a team, and thanked Mayor Wellington for his friendship, knowledge and extraordinary leadership. Councillor Shanhun said that he was excited to continue to serve the community should he be re-elected.

**6.40pm Mayor Wellington**

**Summary of key points:**

Mayor Wellington said that he is passionate about Albany and has thoroughly enjoyed his time working together with Council to achieve fantastic outcomes for the community. Mayor Wellington thanked the Chief Executive Officer for his support, and said that he had every confidence that Council will continue to deliver wonderful outcomes for the community.

Mayor Wellington thanked those Councillors whose terms are ending, and Deputy Mayor Smith and Councillor Stocks (in his role as previous Deputy Mayor) for their service and support.

Mayor Wellington said the City of Albany has a terrific future and looks forward to seeing the Council continuing with strong leadership and commitment from all elected members.

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

**7. PUBLIC QUESTION TIME**

**6.43pm Ms Donna Thomas, Down South Road, Drome**

**Summary of key points:**

Ms Thomas addressed Council regarding her concerns over contamination of the watercourse which runs through her property and has been affected by run-off from the Motorplex site.

Ms Thomas tabled her address and questions which were taken on notice. A response to those questions will be provided direct to Ms Thomas.

**6.45pm Gary Richardson, 40 Parker Street, Lockyer**

**Summary of key points:**

Mr Richardson addressed Council regarding his perception and opinions on continued homelessness and the housing crisis.

**6.47pm Mr Fred Webb, Deep Creek Road, Kalgan**

**Summary of key points:**

Mr Webb addressed Council regarding Report Item DIS363: Industry-Extractive (Gravel), Lot 4 Deep Creek Road, Kalgan. Mr Webb expressed his concern that the current condition of Deep Creek Road will not support the traffic increase.

Mr Webb said that Deep Creek Road is currently not suitable for even light traffic and is requesting that the City seal the road.

Mr Webb asked where the financial contribution made by the timber industry was, and if it had been spent on Deep Creek Road.

**6.52pm Ms Cornelia Wheland, Hortin Road, Kronkup**

**Summary of key points:**

Ms Wehland addressed Council regarding the City's CCTV network and questioned the validity of local government as a properly constituted and lawful entity. Responses to Ms Wehland's questions follow:

1. How many video surveillance cameras does the City of Albany have set up and in operation?

**Response:** the City of Albany has 265 CCTV cameras. The [Code of Conduct for Recorded Material Acquired on City of Albany Property](#) is available on the City's website. Other documents which have a bearing on this matter as it relates to the City of Albany are the *Freedom of Information Act 1992* and the *State Records Act 2000*.

2. Can you please provide proof of authority and verification of my written and expressed consent by way of two wet ink signatures and witnessed that I have agreed to be recorded, photographed or videoed in accordance with the *Surveillance Devices Act 2004 (Commonwealth)*?

**Response:** You would be aware that you have not signed any document related to the use of CCTV by the City of Albany.

The *Surveillance Devices Act 1998 (WA)* regulates the use of surveillance devices in Western Australia. A surveillance device means a listening device, an optical surveillance device or a tracking device. There is no mention of data surveillance devices in this legislation.

This legislation does not deal with CCTV cameras which are used in public areas and are primarily concerned with public safety, but is primarily concerned with private activities. CCTV cameras may be used where the activity is not private.

The Act can be found [here](#).

The *Surveillance Devices Act 2004* also only deals with regulation of listening devices, optical surveillance devices and tracking devices in the context of:

*"establishing procedures for law enforcement officers to obtain warrants, emergency authorisations and tracking device authorisations for the installation and use of surveillance devices in relation to criminal investigations and the location and safe recovery of children to whom recovery orders relate"*.

The *Surveillance Devices Act 2004* can be found [here](#).

3. Regarding the *Constitution of Western Australia Act 1890* (the Act) what lawful proof does the City of Albany with the ABN 94 717 875 167 have that they are a legitimate Government Department duly constituted under the Act within the Commonwealth of Australia - Commonwealth Constitution Act 1900 (UK) Imperial not a Corporate Entity sworn pursuant to the Oaths, Affidavits and Statutory Declarations Act WA 2005 under penalty of perjury and without malice or mischief with unlimited liability?

**Response:** There is no obstacle in the Act to prevent State Parliaments for legislating to create, empower and regulate local government. All States in Australia have done so. The Act was lawfully amended to provide for a system of local government throughout the State of Western Australia under section 52 of the Act. The legal existence of local government was further confirmed through the passing of the *Western Australian Local Government Act 1995*.

Through the *Local Government Act 1995*, the Western Australian Parliament has conferred the power to levy and collect property tax in the form of rates by local government.

Councils are created as statutory bodies corporate under the *Local Government Act 1995*, and those bodies can perform any function and exercise any power conferred on them by the Act which creates them.

The Western Australian Constitution provides that local governments are a distinct and essential tier of government. Therefore they do not need to enter into contracts with individuals.

**6.54pm Ms Janelle Price, 73 Caronia Road, Kalgan**  
**Summary of key points:**

Ms Price addressed Council regarding Report Item DIS363: Industry-Extractive (Gravel), Lot 4 Deep Creek Road, Kalgan. Ms Price expressed concern that residents living on Deep Creek Road have been forgotten.

Ms Price said that she was not opposed to the extractive industry, but Deep Creek Road is not in a suitable condition to take the level of heavy traffic which will use the road to transport gravel from the site. Ms Price requested that a condition assessment of Deep Creek Road be undertaken prior to the commencement of extraction of gravel from the site to ensure that the road is maintained appropriately to ensure that it is safe for residents and does the road condition does not detrimentally affect the amenity of those residents who live on Deep Creek Road.

Ms Price said that it is disappointing that the condition of the road has not been addressed for a long period of time. Ms Price said that the conditions imposed on this development be meaningful and adequate, and that waiting for residents to complain is not appropriate to ensure that the proponents ensure compliance for the extractive industry.

There being no further speakers the Mayor declared Public Question Time closed at **6.59pm**.

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 Ordinary Council Meeting to be held on Tuesday 28 November 2023.**

**CARRIED 12-0**

**9. PETITIONS AND DEPUTATIONS**

**RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOP STOCKS  
SECONDED: COUNCILLOR BAESJOU**

**THAT the Petition requesting that the City of Albany current and future Mayor, current councillors, future councillors who are elected after the October 2023 Local Government Elections, CEO, executive officers and staff enact the following:**

- 1. Immediately advise the Dept of Planning, Lands and Heritage to halt the subdivision process for the current route of Range Road and NOT lodge the current deposited plan with Landgate.**
- 2. Consult and negotiate with the Friends of Yakamia Forest Boodja to re-design and re-route Range Road to achieve a significant reduction in the destruction of native vegetation on Lot 4743, 102 North Road, Yakamia, and beyond.**

**Be RECEIVED.**

**CARRIED 11-1**

**Record of Vote**

Against the Motion: Councillor Smith

**Officer Comment:**

There are 811 signatories to this petition.

**10. CONFIRMATION OF MINUTES**

**RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

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

**THAT the minutes of the Ordinary Council Meeting held on 22 August 2023, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**CARRIED 12-0**

**RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

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

**THAT the minutes of the Special Council Meeting held on 05 September 2023, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**CARRIED 12-0**

**11. PRESENTATIONS Nil**

**12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS**

**CCS559: CLIMATE CHANGE ACTION DECLARATION**

This report was deferred at the Ordinary Council Meeting held on 22 August 2023 to be re-presented to Council.

**CCS560: FINANCIAL ACTIVITY STATEMENT – JULY 2023**

**Proponent / Owner** : City of Albany  
**Attachments** : Monthly Financial Report – July 2023  
**Report Prepared By** : Manager Finance (S van Nierop)  
**Authorising Officer:** : Executive Director Corporate & Commercial Services  
(M Gilfellon)

*The Officer Recommendation was reviewed in context of the City of Albany’s Electoral Caretaker Period Policy, and the CEO has determined that it does not constitute a major policy decision. The CEO therefore recommended this report for Council’s consideration.*

**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 monthly a statement of financial activity that is presented to Council.
- Under changes to the Regulations in June 2023, a local government is now required to also prepare monthly a statement of financial position that is presented to Council.
- The City of Albany’s Monthly Financial Report (inclusive of the statement of financial activity and the statement of financial position) for the period ending 31 July 2023 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 Monthly Financial Report for the period ended 31 July 2023 is preliminary and has not yet been audited.

**RECOMMENDATION**

**CCS560: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

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

**THAT the Monthly Financial Report for the period ending 31 July 2023 be RECEIVED.**

**CARRIED 12-0**

**CCS560: COMMITTEE RECOMMENDATION**

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

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

**CARRIED 12-0**

**CCS560: AUTHORISING OFFICER RECOMMENDATION**

**THAT the Monthly Financial Report for the period ending 31 July 2023 be RECEIVED.**

## **DISCUSSION**

2. To fulfil statutory reporting obligations, the Monthly Financial Report prepared provides a snapshot of the City's year to date financial performance. The report provides the:
  - (a) Statement of Financial Activity by nature classifications (satisfying Regulation 34 of the Local Government (Financial Management) Regulations 1996);
  - (b) Statement of Financial Position (satisfying Regulation 35 of the Local Government (Financial Management) Regulations 1996);
  - (c) Basis of Preparation
  - (d) Explanation of material variances to year-to-date budget;
  - (e) Net Current Asset & Funding Position;
  - (f) Investment Portfolio Snapshot;
  - (g) Receivables; and
  - (h) Capital Acquisitions.
3. 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 CCS545, Council approved that a variance between actual and budget-to-date of greater than \$100,000 is a material variance for reporting purposes in the Statement of Financial Activity for 2023/2024.
4. The Statement of Financial Activity and Statement of Financial Position may be subject to year-end adjustments and have not been audited.
5. 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**

6. The Local Government (Financial Management) Regulations 1996 were amended (SL2023/106) and published on 30 June 2023. The changes, effective from 1 July 2023, have an impact on the reporting of the financial activity statement required each month (Section 34). The below outlines the new reporting requirement under Section 34:
  - 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 the previous month (the "relevant 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 relevant month; and
    - (c) actual amounts of expenditure, revenue and income to the end of the relevant month; 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 relevant month and a note containing a summary explaining the composition of the net current assets.
  - 34(1B) The detail included under subregulation (1)(e) must be structured in the same way as the detail included in the annual budget under regulation 31(1) and (3)(a).
  - 34(1C) Any information relating to exclusions from the calculation of a budget deficiency that is included as part of the budget estimates referred to in subregulation (1)(a) or (b) must be structured in the same way as the corresponding information included in the annual budget.

- 34(2) Each statement of financial activity is to be accompanied by documents containing-
- (b) an explanation of each of the material variances referred to in subregulation (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 according to nature classification.
- 34(4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —
- (a) presented at an ordinary meeting of the council within 2 months after the end of the relevant month; 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.
7. An amendment to the *Local Government (Financial Management) Regulations 1996*, effective from 1 July 2023, is the addition of Regulation 35, with Local Governments now required to report a financial position statement each month. The additional Regulation 35 is as follows:
- 35(1) A local government must prepare each month a statement of financial position showing the financial position of the local government as at the last day of the previous month (the previous month) and —
- (a) the financial position of the local government as at the last day of the previous financial year; or
  - (b) if the previous month is June, the financial position of the local government as at the last day of the financial year before the previous financial year.
- 35(2) A statement of financial position must be —
- (a) presented at an ordinary meeting of the council within 2 months after the end of the previous month; and
  - (b) recorded in the minutes of the meeting at which it is presented.

#### **POLICY IMPLICATIONS**

8. The City's 2023/24 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 July 2023 has been incurred in accordance with the 2023/24 budget parameters.
11. Details of any budget variation more than \$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>
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**CCS561: LIST OF ACCOUNTS FOR PAYMENT – AUGUST 2023**

**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)

*The Officer Recommendation was reviewed in context of the City of Albany's Electoral Caretaker Period Policy, and the CEO has determined that it does not constitute a major policy decision. The CEO therefore recommended this report for Council's consideration.*

**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/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.
- Commencing 1 September 2023, Local Governments are required to report on payments by employees via purchasing cards, under new Regulation 13(A).

**RECOMMENDATION**

**CCS561: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

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

**THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 August 2023 totalling \$4,820,383.75 be RECEIVED.**

**CARRIED 12-0**

**CCS561: COMMITTEE RECOMMENDATION**

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

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

**CARRIED 12-0**

**CCS561: AUTHORISING OFFICER RECOMMENDATION**

**THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 August 2023 totalling \$4,820,383.75 be RECEIVED.**

**DISCUSSION**

2. The table below summarises the payments drawn from the City’s Municipal and Trust funds for the period ending 15 August 2023. Please refer to the Attachment to this report.

<b>Fund</b>	<b>Transaction Type</b>	<b>Amount (\$)</b>
Municipal	Credit Cards	\$32,939.26
Municipal	Payroll	\$1,774,717.22
Municipal	Cheques	\$200.00
Municipal	Electronic Funds Transfer	\$3,012,427.27
Trust	N/A	\$0.00
<b>TOTAL</b>		<b>\$4,820,383.75</b>

3. Included within the Electronic Funds Transfers from the City’s Municipal account are Purchasing Card transactions, required to be reported under Regulation 13(A), totalling: \$7,895.52.
4. The table below summaries the total outstanding creditors as at 15 August 2023.

<b>Aged Creditors</b>	<b>Amount (\$)</b>
Current	\$528,305.29
30 Days	\$1,194,537.65
60 Days	\$15,105.71
90 Days	\$41,357.00
<b>TOTAL</b>	<b>\$1,779,305.65</b>

**STATUTORY IMPLICATIONS**

5. Regulation 12(1)(a) of the *Local Government (Financial Management) Regulations 1996*, provides that payment may only be made from the municipal fund or a trust fund if the Local Government has delegated this function to the Chief Executive Officer or alternatively authorises payment in advance.
6. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.
7. Regulation 13 of the *Local Government (Financial Management) Regulations 1996* provides that if the function of authorising payments is delegated to the Chief Executive Officer, then a list of payments must be presented to Council and recorded in the minutes.
8. As part of the *Local Government Regulations Amendment Regulations 2023 (SL2023/106)*, additional reporting is now required by Local Governments. Regulation 13(A), a new regulation, is required, as follows:

*13A. Payments by employees via purchasing cards*

*(1) If a local government has authorised an employee to use a credit, debit or other purchasing card, a list of payments made using the card must be prepared each month showing the following for each payment made since the last such list was prepared*

- (a) the payee's name;*
- (b) the amount of the payment;*
- (c) the date of the payment;*
- (d) sufficient information to identify the payment.*

(2) *A list prepared under subregulation (1) must be*

- (a) *presented to the council at the next ordinary meeting of the council after the list is prepared; and*
- (b) *recorded in the minutes of that meeting.*

9. Regulation 13(A) comes into operation from 1 September 2023.

**POLICY IMPLICATIONS**

10. Expenditure for the period to 15 August 2023 has been incurred in accordance with the 2023/2024 budget parameters.

**FINANCIAL IMPLICATIONS**

11. Expenditure for the period to 15 August 2023 has been incurred in accordance with the 2023/2024 budget parameters.

**LEGAL IMPLICATIONS**

12. Nil

**ENVIRONMENTAL CONSIDERATIONS**

13. Nil

**ALTERNATE OPTIONS**

14. Nil

**CONCLUSION**

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

16. 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.

<b>Consulted References</b>	:	<i>Local Government (Financial Management) Regulations 1996</i>
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**CCS562: DELEGATED AUTHORITY REPORTS – 16 JULY 2023 TO 15 AUGUST 2023**

<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: Executed Document and Common Seal Report
<b>Report Prepared By</b>	: PA to Mayor and Councillors (D Clark)
<b>Authorising Officer:</b>	: Chief Executive Officer (A Sharpe)

*The Officer Recommendation was reviewed in context of the City of Albany's Electoral Caretaker Period Policy, and the CEO has determined that it does not constitute a major policy decision. The CEO therefore recommended this report for Council's consideration.*

**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**

**CCS562: RESOLUTION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR THOMSON  
SECONDED: COUNCILLOR SHANHUN**

**THAT the Delegated Authority Reports 16 July 2023 to 15 August 2023 be RECEIVED.**

**CARRIED 12-0**

**CCS562: COMMITTEE RECOMMENDATION**

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

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

**CARRIED 12-0**

**CCS562: AUTHORISING OFFICER RECOMMENDATION**

**THAT the Delegated Authority Reports 16 July 2023 to 15 August 2023 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)

**CCS563: ADOPTION OF THE BUDGET REVIEW FOR THE PERIOD  
ENDING - 31 JULY 2023**

**Proponent** : City of Albany  
**Attachments** : Budget Review for the period ending 31 July 2023  
**Report Prepared by** : Business Analyst/Management Accountant (D Harrison)  
**Authorising Officer** : Executive Director Corporate & Commercial Services  
(M Gilfellon)

*The Officer Recommendation was reviewed in context of the City of Albany's Electoral Caretaker Period Policy, and the CEO has determined that it does not constitute a major policy decision. The CEO therefore recommended this report for Council's consideration.*

**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:**

- This review is for the period ending 31 July 2023, and therefore is outside the requirements of regulation 33A of the Local Government (Financial Management) Regulations 1996. A further budget review is required to satisfy this regulatory obligation.
- This budget review achieves a balanced budget inclusive of the proposed Carry Forward Budget Review amendments.

**RECOMMENDATION**

**CCS563: RESOLUTION  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR TERRY  
SECONDED: COUNCILLOR SUTTON**

**THAT the Budget Review for the period ending 31 July 2023 be ADOPTED.**

**CARRIED 12-0  
ABSOLUTE MAJORITY**

**CCS563: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR CRUSE  
SECONDED: MAYOR WELLINGTON**

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

**CARRIED 12-0**

**CCS563: AUTHORISING OFFICER RECOMMENDATION**

**THAT the Budget Review for the period ending 31 July 2023 be ADOPTED.**

## BACKGROUND

2. Local Governments are required to conduct a budget review between 1 January and the last day of February each financial year in accordance with regulation 33A(1) of the Local Government (Financial Management) Regulations 1996. The Department recommends a review of the budget early in the financial year to amend carry forward projects from forecast to actual.
3. Council adopted the FY2023/24 budget on 25 July 2023. The total adopted budget of \$142.2m comprised of:
  - a. \$52.4m capital works;
  - b. \$1.8m debt reduction; and
  - c. \$88.0m in operating expenditure.
4. Included within the \$142.2m budget was \$24.9m of carried forward projects. That is, projects that were not anticipated to be completed by 30 June 2023, and the estimated remaining expenditure relating to these projects was carried forward into the FY2023/24 budget.
5. At the time of preparing the budget, the amount remaining of these carried forward projects was not known, and hence an estimate was provided within the FY2023/24 budget.
6. Now that the financial accounts for FY2022/23 have been completed (although not yet audited), the remaining expenditure relating to the carried forward projects is realised, and the FY2023/24 budget is to be amended to reflect these corrected figures.

## DISCUSSION

7. After the completion of the FY2022/23 financial accounts, the City estimates expenditure of \$24,775,280 required to complete carried forward projects, equating to a decrease of \$160,671 relative to the figure estimated in the FY2023/24 budget adopted by Council.
8. The funding impact relating to the decrease in carried forward project of \$160,671 is as follows:
  - a. \$196,432: Increase in Grant Funding required.
  - b. \$31,177: Increase in Reserves Funding required.
  - c. \$(388,280): Decrease in Municipal Funds required (Opening balance adjustment).
9. A copy of the Budget Review for the period ending 31 July 2023 is attached.
10. Budget adjustments thereafter of an urgent nature will be brought to a Council Meeting as an item to be discussed when required and actioned outside of this review.

## GOVERNMENT & PUBLIC CONSULTATION

11. Department of Local Government guidelines were followed in the preparation of this report.
12. City of Albany Executives, Managers and Officers with budget responsibility were consulted in the preparation of the Budget Review.

## STATUTORY IMPLICATIONS

13. Under the *Local Government Act 1995*, section 6.8, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:
  - a. is incurred in a financial year before the adoption of the annual budget by the local government
  - b. is authorised in advance by a resolution (absolute majority required) or;
  - c. is authorised in advance by the Mayor in an emergency.

14. If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of 7 days and (a) its intention to do so; and (b) the date from which it is proposed the fees or charges will be imposed.

15. The voting requirement for this item is **Absolute Majority**.

**POLICY IMPLICATIONS**

16. There are no policy implications related to this report.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation &amp; Organisation’s Operations.</b> Non approval of the budget review may result in significant delays to achieving deliverables.	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>In the short term the existing Annual Budget would apply, and proposed amendments would not apply. Adopt the Budget Review with amendments (as specified by Council).</i>
<b>Opportunity:</b> Provides Council with an additional opportunity to review the City’s current budget position.				

**FINANCIAL IMPLICATIONS**

18. Please refer to the attachment: Budget Review for the period ending 31 July 2023.

**LEGAL IMPLICATIONS**

19. Nil.

**ENVIRONMENTAL CONSIDERATIONS**

20. Nil.

**ALTERNATE OPTIONS**

21. For the period ending 31 July 2023, Council may consider to:

- a. Adopt the Budget Review as recommended; or
- b. Adopt the Budget Review with amendments (as specified by Council)

**SUMMARY CONCLUSION**

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

<b>Consulted References</b>		<ul style="list-style-type: none"> <li>• Adopted Budget 2023/2024</li> <li>• Local Government Act 1995</li> </ul>
<b>File Number</b>	:	FM.BUG.12
<b>Previous Reference</b>	:	Adopted Budget 2023/2024 – OCM 25/07/2023 Resolution CCS546

**CCS564: ENVIRONMENTAL AND SOCIAL IMPACT OF THE INVESTMENT OF SURPLUS FUNDS POLICY**

<b>Business Entity Name</b>	: City of Albany
<b>Attachments</b>	: <ul style="list-style-type: none"><li>• ESG Impact Report: Investment of Surplus Funds</li><li>• CBA Green, Social &amp; Sustainability Funding Framework</li><li>• CBA 2023 Green, Social and Sustainability Funding Impact Report</li></ul>
<b>Report Prepared By</b>	: Manager Finance (S van Nierop) Financial Services Coordinator (P Martin)
<b>Authorising Officer:</b>	: Executive Director Corporate & Commercial Services (M Gilfellon)

*The Officer Recommendation was reviewed in context of the City of Albany’s Electoral Caretaker Period Policy, and the CEO has determined that it does not constitute a major policy decision. The CEO therefore recommended this report for Council’s consideration.*

**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:** Planet  
**Outcome:** Shared responsibility for climate action.
  - **Pillar:** Leadership  
**Outcome:** Strong workplace culture and performance.  
**Outcome:** A well-informed and engaged community.

**In Brief:**

- In March 2022, the review of the Investment of Surplus Funds Policy (“**the Policy**”) was brought to and adopted by Council.
- An amendment to the Authorising Officer Recommendation was put forward: *The Chief Executive Officer be requested to prepare a report for presentation to the Ordinary Council Meeting September 2023 on the impact of the new environmental and/or socially responsible investments element of the Investment of Surplus Funds Policy.*
- This report brings to Council the impact report requested in March 2022.

**RECOMMENDATION**

**CCS564: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR THOMSON**  
**SECONDED: COUNCILLOR TERRY**

**THAT the report on the impact of the environmental and/or socially responsible investments be NOTED and direct the Chief Executive Officer to arrange for a similar report to be provided to the Ordinary Council Meeting of December 2024 to update the Council on any ESG investments between October 2023 and November 2024.**

**CARRIED 12-0**

CCS564: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR THOMSON  
SECONDED: COUNCILLOR BROUGH

THAT the report on the impact of the environmental and/or socially responsible investments be NOTED and direct the Chief Executive Officer to arrange for a similar report to be provided to the Ordinary Council Meeting of December 2024 to update the Council on any ESG investments between October 2023 and November 2024.

CARRIED 12-0

CCS564: AMENDMENT BY COUNCILLOR THOMSON

MOVED: COUNCILLOR THOMSON  
SECONDED: COUNCILLOR BROUGH

THAT the report on the impact of the environmental and/or socially responsible investments be NOTED and direct the Chief Executive Officer to arrange for a similar report to be provided to the Ordinary Council Meeting of December 2024 to update the Council on any ESG investments between October 2023 and November 2024.

CARRIED 10-2

**Record of Vote:**

Against the Motion: Councillors Brough and Baesjou

*Councillor Thomson then moved an Amendment to the Authorising Officer recommendation.*

CCS564: AUTHORISING OFFICER RECOMMENDATION

MOVED: COUNCILLOR BENSON-LIDHOLM  
SECONDED: COUNCILLOR SHANHUN

THAT the report on the impact of the environmental and/or socially responsible investments be NOTED.

**BACKGROUND**

2. It is a role of Council to determine policy positions.
3. The City has a long-standing policy on the Investment of Surplus Funds.
4. In March 2022, the Policy was reviewed by City Officers, and then subsequently brought to the Audit & Risk Committee and the Ordinary Council Meeting (under item AR108), proposing to be adopted.
5. A summary of the proposed amendments made to the Policy were as follows:
  - a. This policy must be reviewed by the document owner every two years.
  - b. Addition of reference to the City's Strategic Community Plan.
  - c. Removal of Fitch ratings (policy will only follow the Standard & Poor's ratings) to remove any issue if there are differences between the ratings agencies.
  - d. Added section on environmentally and socially responsible investments. This contributes to the City's objective under 14.2.2 of the Corporate Business Plan 2021-25, being: *Provide a sustainable procurement and investment framework to ensure financial processes and service contracts are aligned with the City's social, economic and environmental outcomes.*
  - e. Formatting and minor editorial edits applied.

6. Council adopted the revised policy, with an agreed upon amendment to the section on environmentally and socially responsible investments, being:  
*Investing in environmentally and socially responsible investments is preferred by the City, but is not a mandatory requirement. The necessity being to select the investment that best meets the City's overall investment objectives.*
7. The Council also resolved:  
*The Chief Executive Officer be requested to prepare a report for presentation to the Ordinary Council Meeting September 2023 on the impact of the new environmental and/or socially responsible investments element of the Investment of Surplus Funds Policy.*
8. It is now September 2023, and as such City Officers are bringing to Council the requested impact report on the new environmental and/or socially responsible investments element of the Investment of Surplus Funds Policy.

## DISCUSSION

9. The City approached its eligible deposit taking institutions (per the Investment of Surplus Funds Policy: those that have an office presence in Albany) enquiring on ESG investment products it could invest in.
10. Resulting from enquiries, the City was aware of only one ESG type product they could invest in, being an Environmental, Social and Governance Term Deposit (ESG TD), offered by the Commonwealth Bank of Australia (CBA). We are aware of other ESG type products offered by deposit taking institutions, such as climate bonds, however City officers note that some products aren't permissible per the Regulations or the City's Investment of Surplus Funds Policy. i.e. Under the Regulations, a local government may not invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory Government (r.19C(2)(c)).
11. The funds raised by CBA through their ESG TD product offering are used to finance sustainability-linked loans. These loans, offered to incentivise companies to achieve ESG outcomes, set sustainability performance targets (such as reductions in greenhouse gas emissions or increases in Indigenous employment), and incentivise borrowers to achieve those goals over the course of the loan through financial incentives and/or penalties.
12. The City invested in CBA's ESG TD product from February 2022 through to March 2023.
13. In March 2023, CBA advised that their existing ESG TD offering would be grandfathered. This was based on: *In light of evolving ESG frameworks, clearer regulatory guidance and investor needs, we are working on a new design for ESG and Green Term Deposits which segregates these deposits more clearly and enables them to be as impactful as possible. We are aiming to bring updated ESG and Green TD products to market as soon as possible and will contact you once this occurs.*
14. The City's final CBA ESG TD matured in May 2023.
15. An attachment to this agenda item is the financial performance of the CBA ESG TD relative to the City's total term deposit portfolio, dating back to February 2022. The CBA ESG TD has on average contributed 22% of the City's total investment portfolio, and interest rates achieved on the ESG TD product have been broadly in line with other 'vanilla' term deposit products on offer by CBA and other deposit taking institutions.
16. The CBA has a Green, Social & Sustainability Funding Framework (attached).

17. The framework outlines the Use of Proceeds from CBA’s Sustainable Funding Instruments, going towards financing or refinancing, in whole or in part, the following new and/or existing eligible assets:
  - a. CBA assets that promote the transition to a low-carbon, climate resilient and sustainable economy, including: renewable energy, green commercial buildings, green residential buildings, energy efficiency assets, clean transportation, sustainable water and wastewater management, pollution prevention & control, environmentally sustainable management of living natural resources and land use, and climate change adaptation; and
  - b. CBA assets that aim to address or mitigate a specific social issue and/or seek to achieve positive social outcomes, including: health healthcare & wellbeing, education and vocational training, affordable housing, and affordable basic infrastructure.
18. Assets excluded from CBA’s proceeds of Sustainable Funding Instruments include those focused on:
  - a. Aviation and shipping
  - b. Defence and security
  - c. Fossil fuels
  - d. Gambling
  - e. Mining
  - f. Tobacco.
19. Of note, CBA’s framework references specific UN Sustainable Development Goals, all of which are referred to in the City’s Corporate Business Plan where the City has aligned its outcomes to these relevant sustainability goals.
20. CBA has also released its 2023 Green, Social and Sustainability Funding Impact Report (attached), outlining eligible asset allocations, impact assessments, and their eligible asset pool.
21. The content of this agenda item has focused on the Commonwealth Bank of Australia and specifically the purpose and outcomes of investing in their ESG TD product. This is not to say that the other deposit taking institutions that the City invests in does not focus on ESG, (we are aware that they do), it is that they don’t have specific ESG investment products in place that the City is eligible to invest in.
22. The City will continue to explore and research ESG investment opportunities that align to the City’s objectives and strategies whilst ensuring adherence to the Council endorsed Investment of Surplus Funds Policy.

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

23. No government or public consultation was required in preparing this report.

#### **STATUTORY IMPLICATIONS**

24. Nil.

#### **POLICY IMPLICATIONS**

25. Nil.

**RISK IDENTIFICATION & MITIGATION**

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

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<i>Legal &amp; Compliance Policy positions are inconsistent with legislation.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Policy positions are reviewed against applicable legislation.</i>

**FINANCIAL, LEGAL IMPLICATIONS & ENVIRONMENTAL CONSIDERATIONS**

27. Nil

**ALTERNATE OPTIONS**

28. Nil

**CONCLUSION**

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

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• Local Government Act 1995</li> <li>• Investment of Surplus Funds Policy</li> <li>• City of Albany Corporate Business Plan 2022 - 2026</li> </ul>
<b>File Number</b>	:	CM.STD.7
<b>Previous Reference</b>	:	OCM 22/03/2022 Resolution AR108

**CCS565: NEW COMMERCIAL LEASE AND LICENCE – REGIONAL EXPRESS PTY LTD (REX) – ALBANY REGIONAL AIRPORT**

**Land Description** : Lot 5643 on Deposited Plan 157458 the subject of Certificate of Title Volume 2088 Folio 492, Drome

**Proponent** : Regional Express Pty Ltd (REX) ACN 101 325 642

**Owner** : City of Albany

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

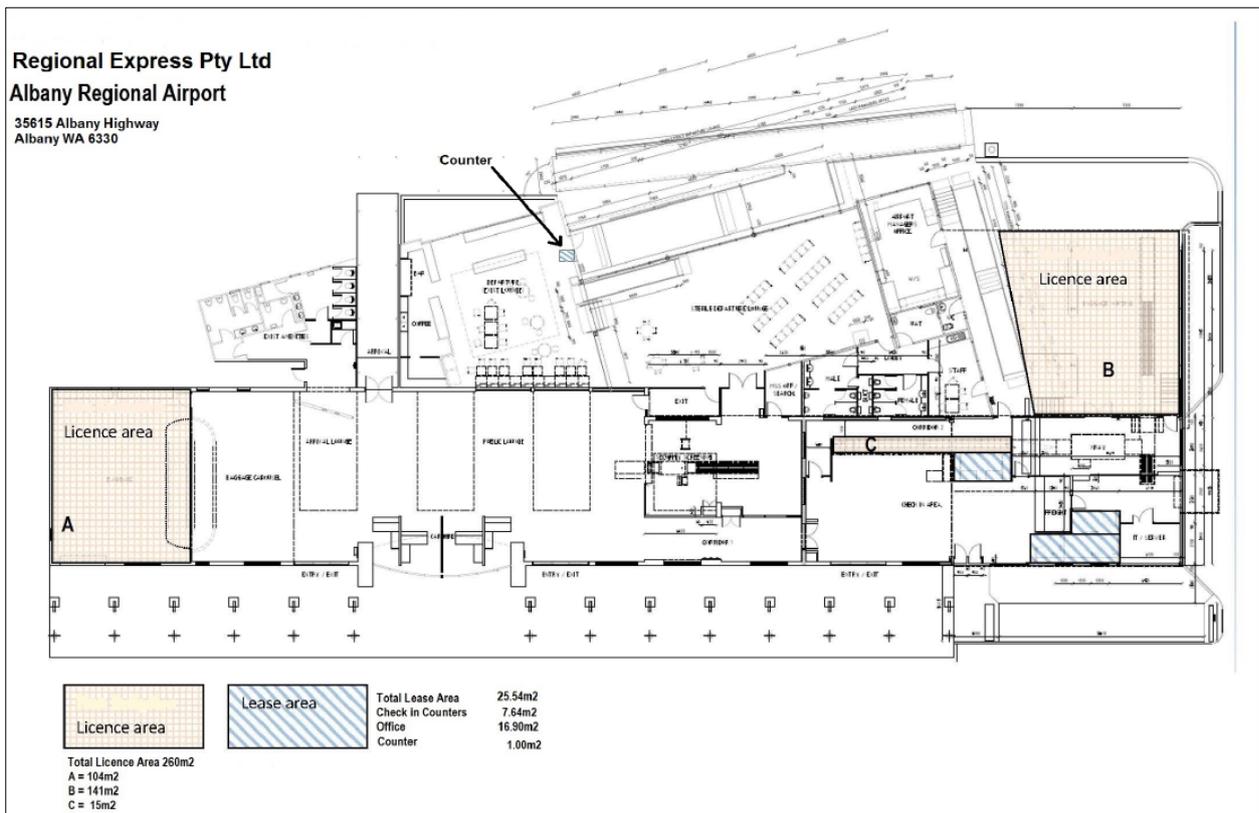
**Authorising Officer:** : Executive Director Corporate & Commercial Services (M Gilfellon)

*The Officer Recommendation was reviewed in context of the City of Albany’s Electoral Caretaker Period Policy, and the CEO has determined that it does not constitute a major policy decision. The CEO therefore recommended this report for Council’s consideration.*

**STRATEGIC IMPLICATIONS**

- This item relates to the following elements of the City of Albany Strategic Community Plan 2032 or Corporate Business Plan informing plans or strategies:
  - Pillar:** Prosperity.
  - Outcome:** A highly sought-after tourist destination.

**Maps and Diagrams:**



**In Brief:**

- Council is requested to consider a new lease and licence to Regional Express Pty Ltd (REX) for a portion of the Airport terminal. This will ensure REX continue delivering Regular Public Transport (RPT) airline services.
- The Minister for Transport recently announced that REX has been awarded the exclusive rights to operate the RPT route between Perth and Albany.
- The proposed lease and licence will align with the RPT Deed of Agreement between REX and the Department of Transport (DoT) from 2 October 2023 to 2 July 2028.
- REX has been occupying the Airport terminal under their current lease and licence since 2016.
- The City's Executive Management Team supports the lease and licence to ensure uninterrupted RPT services by REX.
- It is recommended that the proposed new lease and licence be approved.

**RECOMMENDATION**

**CCS565: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SMITH**  
**SECONDED: COUNCILLOR SHANHUN**

**THAT Council APPROVE a new lease and licence to Regional Express Pty Ltd over part of the Albany Regional Airport terminal located at 35615 Albany Highway, Drome, subject to the terms and conditions outlined in section 14 in this report.**

**CARRIED 12-0**

CCS565: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON  
SECONDED: COUNCILLOR BROUGH

THAT the Authorising Officer Recommendation be ADOPTED.

**CARRIED 12-0**

CCS565: AUTHORISING OFFICER RECOMMENDATION

THAT Council APPROVE a new lease and licence to Regional Express Pty Ltd over part of the Albany Regional Airport terminal located at 35615 Albany Highway, Drome, subject to the terms and conditions outlined in section 14 in this report.

**BACKGROUND**

2. The City of Albany owns and operates the Albany Regional Airport located at 35615 Albany Highway, Drome.
3. At Ordinary Council Meeting on 15 December 2015, Council was informed that the State Government had appointed REX to operate the Perth to Albany RPT air route under a new agreement. The previous agreement with Virgin, the former operator had expired. In that meeting, Council agreed to waive the lease rental considering REX already incurs landing fees and charges.

4. At Ordinary Council Meeting on 22 March 2016, Council approved a new lease and licence to REX as the successful RPT operator. This allowed them to use the Airport Terminal facilities for a term to align with the State Government RPT agreement. The rent was waived consistent with Council decision in December 2015.
5. The current lease and licence with the City expired on 30 June 2023. REX will continue operating under holding over provisions until the proposed new lease and licence commences.
6. Due to the RPT agreement between the State Government and REX due to expire in October 2023, DoT recently held a competitive tender process to select an operator for the Perth to Albany RPT air service route.
7. On 15 August 2023 the Minister for Transport announced that REX has been awarded the exclusive rights to operate the RPT route between Perth and Albany commencing on 2 October 2023 and expiring on 2 July 2028.
8. The City has received a request from REX for a new lease and licence to continue using the Airport terminal for RPT services.

#### DISCUSSION

9. The lease area consists of the flight reception area with two desks for customer check in service, an office space and a counter for exiting passengers.
10. The licence area covers the section where baggage is managed for both arriving and departing flights, including the conveyor belt.
11. REX will only continue to use the Airport terminal if they maintain the exclusive rights to operate RPT services to Albany.
12. All REX staff and contractors must adhere to the laws, regulations and procedures governing air transportation and the use of Albany Airport facilities.
13. Consultation has taken place with the Airport team who support the new lease and licence.
14. The table below summarises the essential terms of the proposed lease and licence.

Item	Details
Tenant	Regional Express Pty Ltd.
Land Description	Lot 5643 on Deposited Plan 157458 the subject of Certificate of Title Volume 2088 Folio 492, Drome
Lease Area	Approx 25m <sup>2</sup>
Licence Area	Approx 260m <sup>2</sup>
Land Ownership	City of Albany
Permitted Use	<ul style="list-style-type: none"> <li>• Lease: Airline reception, office space and associated airline operations to accommodate the Albany RPT air service</li> <li>• Licence: Transfer terminal, baggage handling and associated airline activities to accommodate the Albany RPT air service</li> </ul>
Term of Lease	4 years, 9 months and 1 day (from 2 October 2023 to 2 July 2028) to align with the expiry of the RPT Agreement
Rent	\$1.00 plus GST payable on demand
Outgoings	Tenant responsible for all outgoings, including insurance
Special Conditions	REX remains the exclusive operator of the RPT Perth to Albany route to retain the lease and licence

15. REX has agreed in-principle to the above terms, subject to Council approval.

## GOVERNMENT & PUBLIC CONSULTATION

16. Section 3.58 of the *Local Government Act 1995* (Act) prescribes the process by which the City can dispose of property. For the purposes of this section, a lease is considered to be a disposal. The Act requires the following:
  - a. A local government must give local public notice of the proposed lease/licence inviting submissions from the public, for a period of two weeks.
  - b. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
  - c. A local government can then proceed with the lease/licence.
17. The proposed lease and licence will be advertised to comply with the requirements of the Act.
18. The City owns the land being disposed of in freehold title and therefore no approval from the Minister for Lands is required under the provisions of the *Land Administration Act 1997*.
19. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Advertise proposed lease and licence in local newspaper and City's website inviting submissions from the public	A two-week period following Council endorsement of agenda item	Open	Section 3.58 of the <i>Local Government Act 1995</i>

## STATUTORY IMPLICATIONS

20. Section 3.58 of the *Local Government Act 1995* allows for the disposal of property, including leased/licenced land and buildings, including advertising requirements.

## POLICY IMPLICATIONS

21. The City's Property Management (Leases and Licences) Policy aims to support the equitable access, and the efficient management of City owned and managed properties in line with statutory procedures.
22. Under this policy, rent reviews be conducted annually, with market valuations of the lease every three years and CPI increases in between.
23. Council has previously agreed to waive lease rental for REX under the current lease and licence agreement. Council's continued support of this variation for REX is requested.
24. All other terms of the lease and licence agreement will be in line with the policy.

## RISK IDENTIFICATION & MITIGATION

25. 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> New Lease and Licence not approved – disruption to RPT services.	Unlikely	Major	Medium	Seek to negotiate terms to Council satisfaction.
<b>Reputation:</b> RPT Agreement between DoT and REX not signed.	Unlikely	Major	Medium	New lease and licence with REX not initiated. Liaise with DoT to understand reasons for delay or establish a new RPT operator.
<b>Opportunity:</b> Support the City and State Government commitment to provide a RPT service from Perth to Albany				
<b>Opportunity:</b> The lease aligns with the City's Strategic Community Plan 2032 objective, which aims to improve access to marine, rail and aviation transport to support population growth, tourism, and economic development. It also contributes to creating a competitive and sustainable tourism offering.				

**FINANCIAL IMPLICATIONS**

26. All costs associated with the development, execution and completion of the lease and licence documentation will be met by the City in support of the RPT service.

**LEGAL IMPLICATIONS**

27. The lease and licence will be prepared by City’s lawyers with enforceable terms and conditions to ensure any risk to the City is appropriately mitigated.

**ENVIRONMENTAL CONSIDERATIONS**

28. There are no environmental considerations related to this report.

**ALTERNATE OPTIONS**

29. Council may:
- a. Approve the new lease and licence;
  - b. Support some parts of the new lease and licence although not in its entirety; or
  - c. Not agree to the new lease and licence request.
30. If Council does not agree to the new lease and licence, it could cause disruptions to RPT services.
31. REX will need to work with the City to find another location within the terminal to continue offering flight reception and baggage handling services. However, there is a possibility that REX may not be able to provide all necessary terminal services during this process.

**CONCLUSION**

32. REX currently operate the RPT Perth to Albany air service route under an agreement with the DoT. They also hold a lease and licence with the City allowing use of the Airport terminal facilities. Both of these arrangements are due to expire.
33. The Minister for Transport has announced REX as the successful operator for the RPT Perth to Albany air service route following a competitive State Government tender process.
34. REX has formally requested a new lease and licence to continue using Airport facilities to provide RPT services. The term of the new lease and licence will align with the RPT agreement between REX and DoT commencing 2 October 2023 to 2 July 2028.
35. The proposed lease and licence support the City’s Strategic Community Plan 2032 objective, aiming to create a competitive and sustainable tourism offer and to improve access to marine, rail and aviation transport to support population growth, tourism and economic development.
36. Council is requested to support the granting of a new lease and licence to REX, following the terms and conditions outlined in this report.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• Property Management (Leases and Licences) Policy</li> <li>• <i>Local Government Act 1995</i></li> <li>• <i>Land Administration Act 1997</i></li> </ul>
<b>File Number</b>	:	PRO415, A64802
<b>Previous Reference</b>	:	OCM 15.12.2015 Item ED029 OCM 22.03.2016 Item CSF227

## DIS363: INDUSTRY – EXTRACTIVE (GRAVEL), LOT 4 DEEP CREEK ROAD, KALGAN

<b>Land Description</b>	: Lot 4 Deep Creek Rd, Kalgan 6330
<b>Owner</b>	: Aldamach Investments Pty Ltd
<b>Business Entity Name</b>	: Directors being Charles A Hill, Mark D Buggins, Alvin A Sprigg and David R Jackson
<b>Attachments</b>	: <ul style="list-style-type: none"><li>• Planning Report &amp; Operation Management Plan</li><li>• Schedule of Submissions &amp; Proponents Response</li></ul>
<b>Supplementary Information &amp; Councillor Workstation</b>	: Copy of submissions
<b>Report Prepared By</b>	: Senior Planning Officer (J Anderson)
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development and Environment (P Camins)

### Electoral Caretaker Period Policy Statement

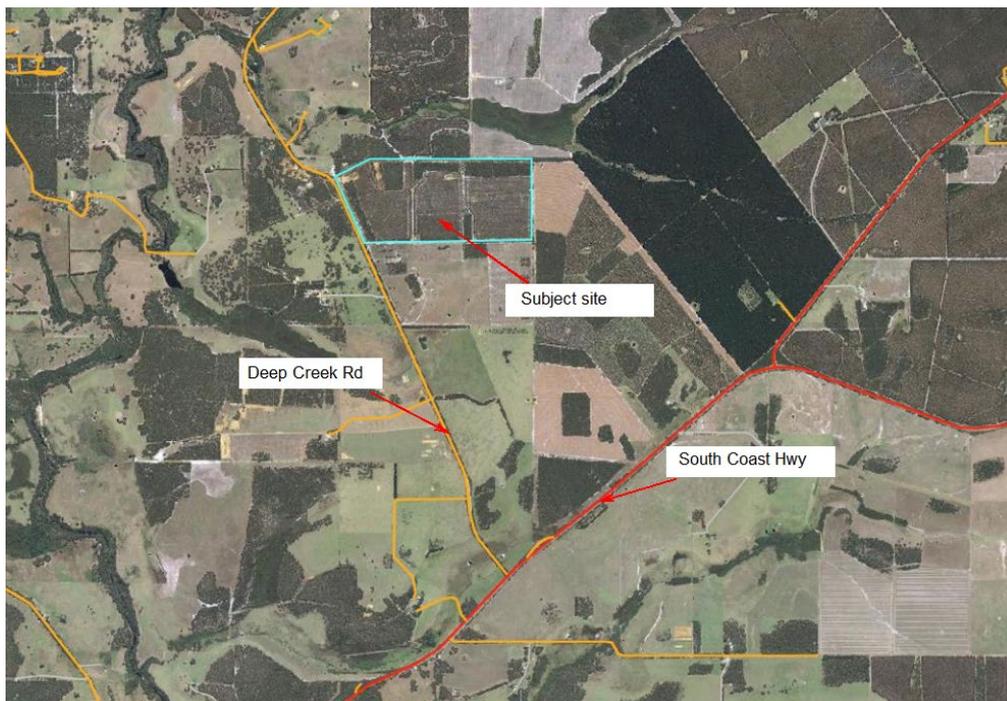
The Officer Recommendation was reviewed in context of the City of Albany's Electoral Caretaker Period Policy, and the CEO has determined that it does not constitute a major policy decision.

The CEO therefore, recommended this report for Council's consideration.

### STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed development, the Council is obliged to draw conclusion from its adopted *City of Albany Local Planning Strategy 2019* and *City of Albany Strategic Community Plan 2032*.
3. 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.
4. The proposal is consistent with the strategic directions identified in the Planning Strategy.

### Maps and Diagrams:



**In Brief:**

- Council is asked to consider an application for development approval for an Industry – Extractive (Gravel) at Lot 4 Deep Creek Road, Kalgan. The land use is designated as an 'A' use within the Priority Agricultural zone.
- The application was advertised for public comment via direct mail out to surrounding landowners within a 1km radius. Six submissions were received in relation to the proposal; five submissions were generally supportive should the ongoing issue with the road be addressed, with the remaining submission objecting to the proposal.
- The application in its current form, including an updated Operations Management Plan, has been assessed on its merit against relevant state regulations and guidelines, the City's *Local Planning Scheme No. 1*, and applicable local planning policies. Advice from state agencies and relevant matters raised during the advertising period, have been considered as part of the City's assessment.
- Staff consider that the proposal will not have a detrimental impact on adjoining properties nor the overarching amenity and desired character of the area, and the use is consistent with the relevant objectives of the zone.
- Operational and environmental matters have been addressed, with the proposal required to operate in accordance with recommended conditions of development approval, including the approved Management Plan and applicable state government requirements.
- Due to the number of concerns raised, the application is being referred to Council for determination.
- Staff therefore recommend that Council approve the proposed development, subject to conditions.

**RECOMMENDATION**

**DIS363: RESOLUTION 1**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR BROUGH**

**SECONDED: COUNCILLOR TERRY**

**THAT Council resolves to ISSUE a notice of determination granting temporary development approval with conditions for Industry – Extractive (Gravel) at Lot 4 Deep Creek Road, Kalgan.**

**Conditions:**

- 1. This consent is valid until XX September 2028, after which a new application will be required to be lodged with the City of Albany.**
- 2. All development shall occur in accordance with the stamped, approved plans referenced P2200207 and dated XX September 2023, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.**
- 3. The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke, or dust.**
- 4. The development is required to comply with all relevant Health Regulations, regard should be paid to dust management and noise regulations.**
- 5. The level of noise emanating from the development shall not exceed that prescribed in the *Environmental Protection Act 1986*, and the *Environmental Protection (Noise) Regulations 1997*.**
- 6. Prior to commencement of operations, the operator shall liaise with the school bus operator to establish a traffic schedule to avoid potential conflict with school bus operations.**

7. **Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating to Extractive Industries.**
8. **The measures and actions identified in the Planning Report and Operations Management Plan dated April 2023 being implemented and maintained to the satisfaction of the City of Albany.**
9. **The operation of the extraction areas shall be contained within the area nominated on the stamped, approved plans referenced P2230154 and dated XX September 2023.**
10. **Only one hectare of the extraction area identified on the stamped, approved plans shall be opened at any one time, unless otherwise agreed in writing by the City of Albany.**
11. **In accordance with Planning Report and Operations Management Plan dated April 2023, operation of the pit shall be restricted to the following hours, unless otherwise agreed in writing by the City of Albany:**
  - **7.00am – 5.00pm Monday to Friday**
  - **No operation at all on Saturdays, Sundays or Public Holidays**
12. **Prior to commencement of operations, a Stormwater Management Plan shall be submitted for approval, in consultation with the Department Water and Environmental Regulation. Prior to occupation of development, the approved Stormwater Management Plan shall be implemented, completed and maintained thereafter to the satisfaction of the City of Albany.**

***Advice:***

- **The proponent should be required - at minimum - to calculate stormwater runoff volumes and provide detailed design of drainage measures, prior to approval.**
  - **Stormwater channels/bunds to be constructed around the pit to direct stormwater away from the pit and into the surrounding pasture.**
  - **Installing a water collection point (sediment trap) to prevent the outflow of sediment from the gravel pit. Stormwater within the pit to be directed to the sediment trap for the settling of suspended solids. The stormwater collected in the sediment trap to evaporate and/or be discharged into pastured areas; and**
  - **Drainage of the rehabilitated gravel pit will re-establish the contours to allow for water movement to freely drain over the surrounding environment.**
  - **Detail should be provided including the design of systems to manage stormwater flowing from disturbed areas, including areas for stockpiles, to prevent turbidity (e.g., via settling pits) and uncontrolled run off.**
13. **The applicant will be responsible for the repair of any damage to any road within the City of Albany, caused by the extraction operations. Where repair works are required, they are to be undertaken within an appropriate timeframe by the applicant at their cost, to the satisfaction of the City of Albany.**
  14. **No remnant vegetation shall be removed as part of this extraction operation, without the prior approval of the Department of Water and Environment Regulation.**
  15. **Management of the site shall include measures to monitor for any impacts on remnant vegetation and to mitigate any risks to its integrity, to the satisfaction of the City of Albany.**
  16. **No direct discharge shall occur from the extraction area to any watercourse, without the prior approval of the Department of Water and Environment Regulation.**

17. In accordance with the measures and actions outlined in the Planning Report and Operations Management Plan dated April 2023, and to the satisfaction of the City of Albany, the development shall comply with the following:
  - No fuels, oils and chemicals shall be stored on the site.
  - Refuelling to be undertaken in a designated area with spill kits available at all times.
  - Running repairs may be conducted only if effective measures are in place to prevent fuel, lubricants, coolant and hydraulic fluid losses to the environment.
18. Any off-site fill must be clean soil, free of weed material or of uncontaminated Inert Waste Type 1 (as defined by the *Landfill Waste Classification and Waste Definitions 1996* (as amended 2019) of the *Environmental Protection Act 1986*).
19. Prevention of dust and sand blowing causing a nuisance to adjoining landowners, by the installation of sprinklers, utilisation of water tankers, mulching, or by the adoption and implementation of any other suitable land management system to be undertaken in accordance with the Department of Water and Environmental Regulation *Guideline for Managing the Impacts of Dust and Associated Contaminants from Land Development Sites, Contaminated Sites Remediation and Other Related Activities 2011* and the City of Albany *Prevention and Abatement of Sand Drift Local Law 2000*.
20. No blasting of material is permitted as part of extraction operations, unless a separate written approval has been obtained from the City of Albany.
21. Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating to Extractive Industries.
22. The site shall be suitably rehabilitated and re-contoured on a per hectare basis (prior to commencement of the next extractive process), including re-battering of banks and reseeded and stabilising of former extraction areas. Rehabilitation shall be undertaken in accordance with the Rehabilitation Management measures and actions outlined in the Planning Report and Operation Management Plan dated April 2023, to the satisfaction of the City of Albany.
23. A minimum of 150mm of topsoil shall be left above any hard surface (i.e. clay/gravel) unless a lesser amount is approved by the City of Albany.
24. A refundable bond/bank guarantee of \$5,000.00 per hectare shall be lodged with the City of Albany for remediation work if required.

**General Advice:**

The management of all activities involving hazardous chemicals shall be in accordance with best practice recommendations outlines in the Department of Water Quality Protection Note No. 15 – ‘Basic Raw Materials Extraction’, to the satisfaction of the Department of Environment.

**CARRIED 12-0**

**DIS363: RESOLUTION 2**

**MOVED: COUNCILLOR STOCKS  
SECONDED: COUNCILLOR SHANHUN**

**THAT the CEO be requested to arrange for the presentation of a report into the condition of the relevant portion of Deep Creek Road and where that road will then sit in the hierarchy of priority for the road network in the eastern part of the municipality by February 2024.**

**CARRIED 12-0**

DIS363: AMENDMENT BY COUNCILLOR STOCKS

MOVED: COUNCILLOR STOCKS  
SECONDED: COUNCILLOR SHANHUN

THAT the CEO be requested to arrange for the presentation of a report into the condition of the relevant portion of Deep Creek Road **and where that road will then sit in the hierarchy of priority for the road network in the eastern part of the municipality by February 2024.**

CARRIED 12-0

*Councillor Stocks then proposed an amendment to Councillor Thomson's motion:*

DIS363: MOTION BY COUNCILLOR THOMSON

MOVED: COUNCILLOR THOMSON  
SECONDED: COUNCILLOR SUTTON

THAT the CEO be requested to arrange for the presentation of a report into the condition of the relevant portion of Deep Creek Road for the consideration of Council before the December 2023 meeting of Council.

*Councillor Thomson proposed an additional motion.*

DIS363: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR BROUGH  
SECONDED: COUNCILLOR TERRY

That the Authorising Officer Recommendation be ADOPTED.

CARRIED 11-0

DIS363: AUTHORISING OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting temporary development approval with conditions for Industry – Extractive (Gravel) at Lot 4 Deep Creek Road, Kalgan.

Conditions:

1. This consent is valid until XX September 2028, after which a new application will be required to be lodged with the City of Albany.
2. All development shall occur in accordance with the stamped, approved plans referenced P2200207 and dated XX September 2023, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
3. The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke, or dust.
4. The development is required to comply with all relevant Health Regulations, regard should be paid to dust management and noise regulations.
5. The level of noise emanating from the development shall not exceed that prescribed in the *Environmental Protection Act 1986, and the Environmental Protection (Noise) Regulations 1997.*

6. Prior to commencement of operations, the operator shall liaise with the school bus operator to establish a traffic schedule to avoid potential conflict with school bus operations.
7. Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating to Extractive Industries.
8. The measures and actions identified in the Planning Report and Operations Management Plan dated April 2023 being implemented and maintained to the satisfaction of the City of Albany.
9. The operation of the extraction areas shall be contained within the area nominated on the stamped, approved plans referenced P2230154 and dated XX September 2023.
10. Only one hectare of the extraction area identified on the stamped, approved plans shall be opened at any one time, unless otherwise agreed in writing by the City of Albany.
11. In accordance with Planning Report and Operations Management Plan dated April 2023, operation of the pit shall be restricted to the following hours, unless otherwise agreed in writing by the City of Albany:
  - 7.00am – 5.00pm Monday to Friday
  - No operation at all on Saturdays, Sundays or Public Holidays
12. Prior to commencement of operations, a Stormwater Management Plan shall be submitted for approval, in consultation with the Department Water and Environmental Regulation. Prior to occupation of development, the approved Stormwater Management Plan shall be implemented, completed and maintained thereafter to the satisfaction of the City of Albany.

*Advice:*

  - The proponent should be required - at minimum - to calculate stormwater runoff volumes and provide detailed design of drainage measures, prior to approval.
  - Stormwater channels/bunds to be constructed around the pit to direct stormwater away from the pit and into the surrounding pasture.
  - Installing a water collection point (sediment trap) to prevent the outflow of sediment from the gravel pit. Stormwater within the pit to be directed to the sediment trap for the settling of suspended solids. The stormwater collected in the sediment trap to evaporate and/or be discharged into pastured areas; and
  - Drainage of the rehabilitated gravel pit will re-establish the contours to allow for water movement to freely drain over the surrounding environment.
  - Detail should be provided including the design of systems to manage stormwater flowing from disturbed areas, including areas for stockpiles, to prevent turbidity (e.g., via settling pits) and uncontrolled run off.
13. The applicant will be responsible for the repair of any damage to any road within the City of Albany, caused by the extraction operations. Where repair works are required, they are to be undertaken within an appropriate timeframe by the applicant at their cost, to the satisfaction of the City of Albany.
14. No remnant vegetation shall be removed as part of this extraction operation, without the prior approval of the Department of Water and Environment Regulation.
15. Management of the site shall include measures to monitor for any impacts on remnant vegetation and to mitigate any risks to its integrity, to the satisfaction of the City of Albany.
16. No direct discharge shall occur from the extraction area to any watercourse, without the prior approval of the Department of Water and Environment Regulation.
17. In accordance with the measures and actions outlined in the Planning Report and Operations Management Plan dated April 2023, and to the satisfaction of the City of Albany, the development shall comply with the following:

- No fuels, oils and chemicals shall be stored on the site.
- Refuelling to be undertaken in a designated area with spill kits available at all times.
- Running repairs may be conducted only if effective measures are in place to prevent fuel, lubricants, coolant and hydraulic fluid losses to the environment.

18. Any off-site fill must be clean soil, free of weed material or of uncontaminated Inert Waste Type 1 (as defined by the *Landfill Waste Classification and Waste Definitions 1996* (as amended 2019) of the *Environmental Protection Act 1986*).
19. Prevention of dust and sand blowing causing a nuisance to adjoining landowners, by the installation of sprinklers, utilisation of water tankers, mulching, or by the adoption and implementation of any other suitable land management system to be undertaken in accordance with the Department of Water and Environmental Regulation *Guideline for Managing the Impacts of Dust and Associated Contaminants from Land Development Sites, Contaminated Sites Remediation and Other Related Activities 2011* and the City of Albany *Prevention and Abatement of Sand Drift Local Law 2000*.
20. No blasting of material is permitted as part of extraction operations, unless a separate written approval has been obtained from the City of Albany.
21. Compliance with the relevant clauses and provisions of the City of Albany Local Laws relating to Extractive Industries.
22. The site shall be suitably rehabilitated and re-contoured on a per hectare basis (prior to commencement of the next extractive process), including re-battering of banks and reseeded and stabilising of former extraction areas. Rehabilitation shall be undertaken in accordance with the Rehabilitation Management measures and actions outlined in the Planning Report and Operation Management Plan dated April 2023, to the satisfaction of the City of Albany.
23. A minimum of 150mm of topsoil shall be left above any hard surface (i.e. clay/gravel) unless a lesser amount is approved by the City of Albany.
24. A refundable bond/bank guarantee of \$5,000.00 per hectare shall be lodged with the City of Albany for remediation work if required.

*General Advice:*

The management of all activities involving hazardous chemicals shall be in accordance with best practice recommendations outlines in the Department of Water Quality Protection Note No. 15 – ‘Basic Raw Materials Extraction’, to the satisfaction of the Department of Environment.

**BACKGROUND**

5. The subject site lies to the eastern side of Deep Creek Road, approximately 22km north-east of the Albany City centre.
6. The footprint of the extraction area is within a previously cleared blue gum plantation.
7. Site details:

<b>Local Planning Scheme</b>	City of Albany Local Planning Scheme No. 1 (LPS1)
<b>Zone</b>	Priority Agriculture
<b>LPS1 Use Class &amp; Permissibility (Table 2)</b>	Extractive Industry - A
<b>Existing Land Uses:</b>	Agriculture-Extensive
<b>Total site area</b>	Approx. 94 hectares
<b>Bushfire Prone Area:</b>	Yes

Site context

8. Adjoining land to the north, south and west are zoned 'Priority Agriculture'.
9. Deep Creek Road is an unsealed road, connecting South Coast Highway to Mindijup Road.

**DISCUSSION**

Proposal

10. The proposed Extractive Industry involves the following:

<b>Area of use</b>	<ul style="list-style-type: none"> <li>• Approximately total area 2.95ha</li> <li>• Divided into three stages (refer staging plan) ranging from in area from 0.95ha to 1ha</li> </ul>
<b>Summary of proposed operations</b>	<p><u>Available resource and duration</u></p> <ul style="list-style-type: none"> <li>• Estimated total gravel resource available is approximately 24,500 tonnes, proposed to be extracted over a period of 5 years.</li> <li>• The maximum amount of extraction per year is estimated to be 4,900 tonnes, subject to demand.</li> </ul> <p><u>Siting &amp; setbacks</u></p> <ul style="list-style-type: none"> <li>• The proposed (approximate) setbacks are as follows:</li> <li>• 209m from the northern boundary;</li> <li>• 93m from the western boundary (Deep Creek Road);</li> <li>• 160m from the southern boundary; and</li> <li>• 1188m from the eastern boundary.</li> <li>• The closest dwellings are located to the north-north west, and south-south east, with an approximate setback of 320m from the nominated extraction area. This exceeds the required 200m setback under the City of Albany's <i>Mining and Extractive Industries Policy</i>.</li> </ul> <p><u>Extractive operations</u></p> <ul style="list-style-type: none"> <li>• The proposed operation times are between 7.00am to 5.00pm on weekdays (Monday to Friday).</li> <li>• Extract from one pit at a time, with a maximum of 1ha exposed/operated at any given time.</li> <li>• A dozer will strip the area of approximately 150mm to 200mm of overburden/topsoil to be stockpiled in windrows adjacent to the site and used in the rehabilitation stage.</li> <li>• Total depth of gravel extraction is estimated to be between 0.4m - 1.2m, with a dozer to push the material into a stockpile in readiness for processing (screening/crushing).</li> <li>• Gravel will be fed into the crushing and screening plant (located to the east of the proposed extraction area) and stockpiled within a designated area adjacent to the pit for use as demand requires, prior to being loaded onto trucks;</li> <li>• Overburden/topsoil (approximately 150-200mm) will be windrowed and stored adjacent to each stage in readiness to be used in the rehabilitation process. Each windrow will have a maximum height of 3m;</li> <li>• Progressive rehabilitation of each pit prior to the commencement of a new pit, and upon completion, the area will be rehabilitated and returned to pasture.</li> </ul>

	<p><u>Access &amp; traffic</u></p> <ul style="list-style-type: none"><li>• Material to be transported off-site for use within the Albany area.</li><li>• Access will be via the existing access crossover, which is located to the south of the lot, approximately 3km north from South Coast Highway intersection;</li><li>• Extracted gravel will be removed from site via pocket road trains and semi-trailers;</li><li>• The number of truck movements will vary dependent on demand, however at peak times it is expected that there will be ten truckloads per day, which equates to twenty truck movements per day. During low demand times, it is likely that 0–2 movements per day will occur.</li></ul> <p><u>General operations</u></p> <ul style="list-style-type: none"><li>• There will be no hydrocarbons, chemicals, fuels, coolants stored onsite. These will be transported onsite as required by a contained mobile service vehicle which will be appropriately equipped with spill kits in the unlikely event that there is a spillage;</li><li>• There is an area of remnant vegetation located 90m to the north-eastern area of the property/extraction area. There is no removal of remnant vegetation proposed as part of the proposal. The areas of intact remnant vegetation will not be cleared during the extraction project;</li></ul>
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Public consultation

11. The application was advertised for public comment via direct mail out to surrounding landowners within a 1km radius.
12. A total of six submissions were received in relation to the proposal. Of these submissions, five were generally supportive should the ongoing issues with the condition of the road be addressed, with one objection received.
13. The concerns or objections relate primarily to the following:
  - Current condition of Deep Creek Road & not suitable for additional traffic.
  - Amenity – Noise and odour and environmental impact (waterways, dust, and air pollution).
  - Hours of operation.
  - Other matters, including impacts on value of property.
14. As a result of the concerns raised during the submission period, the applicant provided a response, which is included under the attached schedule of submissions.
15. The proposal was also referred to the Department of Water and Environmental Regulation (DWER).

Assessment

16. The City has considered the proposal against the relevant provisions contained under LPS1 including the objectives of the Priority Agricultural zone, as well as matters outlined under cl. 67 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Planning Regulations), advice from state agencies and relevant submissions received during advertising.
17. To assist the City in determining the appropriateness of a proposal under the local planning framework, DWER were referred the proposal for comment, as the responsible authority on considering environmental matters, including determining the environmental acceptability of a proposal, in accordance with relevant legislation, guidelines and standards.
18. As outlined elsewhere in the report, buffer distances for this type of extractive operation are to be determined on a case by case basis, in accordance with *EPA Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses 2005*.
19. The City of Albany *Extractive Industries and Mining Policy* requires that buffer distances are to be in accordance with EPA requirements, with LPS1 and *Extractive Industries and Mining Policy* further stipulating the following buffer distances between excavation and dwellings that are not located on the subject property:

Minimum required buffer distances	Proposed
200m	Closest adjoining dwelling 320m

20. The Planning Report and Operation Management Plan prepared for the development outlines the consideration of the potential impacts of the proposal on sensitive land uses, and methodology and approaches to mitigate potential environmental impacts.
21. Detailed discussion of the proposal, including advice from state agencies and concerns raised during submissions is provided below.

Road Safety & Maintenance

22. The concerns raised primarily related to use of Deep Creek Road and associated safety matters, including:
  - Sight lines on Deep Creek Road too short at the entrance to the site for other road users.
  - Operating hours will overlap with the school bus.
  - Ongoing issues with the existing condition of the road, with submissions from adjoining landowners claiming that the condition of the road was inadequate to cater for current volumes of traffic, with any increase resulting in further safety issues from the continual impacts from wear and tear. To address these concerns a number of submissions included requests for Deep Creek Road being reconstructed or sealed.
23. The proposal was referred to the City’s Engineering team who confirmed that the sight lines at the entry to the site were sufficient.
24. To address concerns raised relating to potential for conflict between trucks and school buses on Deep Creek Road, a standard condition is recommended to be applied requiring the proponent to liaise with school bus operators to commence a dialogue and establish a schedule that both parties agree to.

25. In terms of traffic volume and potential impacts on Deep Creek Road, the following considerations are to be taken into account for assessment of extractive industries:
  - Vehicle movements associated with operations are seasonal and vary according to construction demand, which the proponent has confirmed will be the case for this operation.
  - During times of high demand, the proponent has indicated that there would be up to a maximum of 10 trips per day (this equates to 20 movements).
  - During times of low demand, the proponent has further indicated that it was likely there would be no movements at all.
26. The concerns raised in submissions regarding ongoing issues by users with the current condition of the road were raised with the City's Operations team. City Operations advised that at this stage extra maintenance would be considered as needed, however no substantial upgrades are currently identified for Deep Creek Road.
27. In terms of the capacity of the road network, the City is required to take into account the amount of traffic generated by a proposed development and potential impacts on traffic flow and safety.
28. Officer's opinion is that additional traffic generated by the use is unlikely to have a significant impact on the road from a traffic flow and safety perspective, to the extent that a refusal of the development application is recommended.
29. It is acknowledged that the City in certain circumstances has required via a condition of development approval an extractive industry operation to provide a cost contribution or undertaken substantial upgrades (such as sealing) to road infrastructure impacted by the development.
30. Such a requirement is applied where there is an identified need and nexus demonstrating that the proposed development and the associated traffic generated by the use would be likely to have a significant enough impact on the road infrastructure to warrant a cost contribution or upgrades being undertaken by the proponent.
31. Due to the nature of the development and associated traffic generated by the use, there is an expectation of some level of impact on any road infrastructure, especially during peak periods.
32. To address this, it is recommended that a standard condition be applied requiring the proponent to rectify any damage to any road within the City of Albany municipality, as a result of the extractive industry operations.
33. The concerns raised regarding the issues with the existing condition of Deep Creek Road are noted, including the requests for substantial upgrades for either reconstruction and/or sealing.
34. However, it is in the officer's opinion that in this instance it is unreasonable to require the proponent to provide a cost contribution or undertake significant upgrades to the road via a condition of approval, given the smaller scale of the proposed operation (maximum 3ha over a 5 year period).
35. The potential traffic volumes expected to be generated on Deep Creek Road by the use are unlikely to have a significant enough impact to create a need and nexus for the City to condition such a requirement.
36. However, should Council be of a mind to require a cost contribution or significant upgrades being implemented by the proponent, this can be applied as a condition of approval.

Amenity – noise, dust & environmental impact

37. Concerns were also raised in relation to potential negative impacts of the proposal on amenity and environment:
- There will be an increase in noise and dust and the proposal did not identify adequate measures to mitigate these. The Operations Management Plan does not quantify the noise produced by the screening process or provide an acceptable quantifiable noise level at the site boundaries to allow testing.
  - The dust would be carried into dam catchments, roof spaces, from which personal drinking and stock water are drawn.
  - The hours of operation should be limited to the hours of 7am to 5pm on weekdays to minimise impacts on the amenity of adjoining neighbours.
38. In accordance with LPS1, Extractive Industry is a use that can be considered in the Priority Agriculture zone.
39. The applicant agreed to reduce the standard operating hours as requested and has amended the Operation Management Plan in response to this.
40. In their advice to the City, DWER identified that the proposal has the potential for impact on environment and/or water resource values and/or management, outlining the following key issues and recommendations:
- The proposed operations in its current form, including maximum tonnage of material extracted per year, were below the minimum threshold for consideration as a Prescribed Premises. However any modification to the Operations Management Plan and associated equipment and production capacity had potential to go above the minimum threshold. Prescribed Premises require additional approval from DWER, who outlined that the *Environmental Protection Act 1986* makes it an offence to undertake any works that causes a premises to become or capable of being a Prescribed Premises, and therefore it was recommended that the applicant be advised of the relevant information and requirements, including DWER's Industry Regulation Guide to Licensing.
  - The proposed gravel pit activity footprint was adjacent to remnant vegetation on the Deep Creek Road boundary, and therefore management of the site should include measures to monitor for any impacts on remnant vegetation and to mitigate any risks to its integrity.
  - That management of all activities involving hazardous chemicals shall be in accordance with best practice recommendations outlines in the Department of Water Quality Protection Note No. 15 – 'Basic Raw Materials Extraction'.
  - The requirement for a Stormwater Management Plan to be prepared and submitted for approval by the City, in consultation with DWER, to be imposed as a condition of development approval. The Stormwater Management Plan to be prepared in accordance with WQPN 15 (above) and shall address minimum requirements and information regarding the management of stormwater runoff and drainage, with the measures to be implemented, completed and maintained thereafter to the satisfaction of the City.
41. In regard to dust emissions, DWER is also the responsible body for the assessment of the emissions and buffers for screening and crushing plants. The applicant is responsible for ensuring that they have obtained the required licences from DWER prior to undertaking this activity onsite.
42. When assessing the potential negative impact of a proposal on surrounding amenity, it is necessary to determine the level of existing amenity within the immediate area and secondly, within the wider locality.

43. The existing amenity within the immediate and wider area can be classified as having a rural landscape, defined by open paddocks with clusters of remnant vegetation. Surrounding land uses are predominantly agricultural – extensive and blue gum plantations.
44. Noting the concerns raised during advertising, staff consider that the proposal in its current form has satisfactorily demonstrated that any impacts on adjoining landowners will be adequately addressed and mitigated, subject to compliance with requirements outlined under approved management plans.
45. General advice from the Department of Health outlines that unless adequately treated, rainwater is not reliably safe to drink and it is almost impossible to completely protect rainwater from contamination.
46. The City provides general advice to consumers that installing screens, filters and first flush devices will reduce contamination if people are using rainwater for this purpose.
47. In summary, the proposal is not considered to be out of character with the surrounding predominant agricultural setting and functions, with appropriate methods identified to manage and mitigate potential impacts on the environment and surrounding properties.
48. Staff consider the proposal it is consistent with the objectives of the Priority Agricultural zone in this instance and is unlikely to have a detrimental impact the amenity of the area.

#### Other matters

49. A concern was raised which claimed property value would be affected.
50. Property value is not a matter to be considered under the Planning Regulations.

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

51. The proposal was advertised for public comment for a period of 21 days, in accordance with clause 64 of the Planning Regulations. Surrounding landowners were notified directly by letter.
52. A total of six (6) submissions were received in relation to the proposal. Of these submissions, five (5) were generally supportive should the ongoing issue with the road be addressed, and one (1) objection was received. Staff comments and recommendations are provided in the attached schedule, while the broad issues are discussed in the paragraphs.
53. In addition to the public consultation, the proposal was also referred to the Department of Water and Environmental Regulation (DWER).
54. DWER stipulated that it was the proponent's responsibility for obtaining all necessary separate licences, approvals and permits before commencing any works on site.
55. The advice from DWER will be addressed through appropriate planning conditions.

#### **STATUTORY IMPLICATIONS**

56. Extractive Industry is classified as an 'A' use within the 'Priority Agriculture' zone under LPS1, meaning that the use is not permitted, unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 of the Scheme.
57. The *EPA Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses 2005* set out the criteria for buffers. The guidelines do not set out a specific buffer for this type of extraction operation, and individual operations are assessed on a case by case basis.

58. The Department of Planning, Lands and Heritage *SPP 2.4 – Basic Raw Materials Guidelines (2021)* incorporates a site selection checklist intended on guiding the applicant during the site selection process.
59. Within this checklist it recommends that adequate setbacks for Extractive Industries from sensitive lands uses should be between 300m and 1km. The guidelines however state that local government assessment and approval should be based on relevant local planning scheme provisions, policies or strategies where applicable.
60. The City of Albany Extractive Industries and Mining Policy requires that buffer distances are to be in accordance with EPA requirements.
61. Although the EPA's *Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses 2005* do not set out a specific buffer for this type of extraction operation, and operations are assessed on a case by case basis, the City of Albany LPS1 and Extractive Industries and Mining Policy further stipulate that 200m should be achieved between excavation and dwellings that are not located on the subject property. Refer to Assessment section of the report for detailed discussion.
62. Voting requirement for this item is **Simple Majority**.

### **POLICY IMPLICATIONS**

63. The primary assessment criteria for the application are set out in the City of Albany *Extractive Industries and Mining Policy*.
  - a) The proposal is classified as a Class 2 extractive industry under the policy. Class 2 extractive industries have site extraction areas of between 0.75 and 3 hectares with a maximum depth of 3 metres.
  - b) The policy requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority requirements. The EPA *Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses 2005* do not set out a specific buffer for this particular type of extraction as it is assessed on a case-by-case basis. The closest dwelling to the west is 320 metres from the nominated extraction area and therefore compliant with the City of Albany *Extractive Industries and Mining Policy* and the intent of the EPA *Guidance for the Assessment of Environmental Factors - Separation Distances between Industrial and Sensitive Land Uses 2005*.
  - c) It should be noted that the applicant is required to obtain a separate licence through DWER for screening and crushing plants. A full assessment by DWER of this aspect of the proposal would be undertaken at this time.
  - d) The proposed extraction area is compliant with the provision of the policy that requires pits being located 40 metres from any public road and 20 metres from any other boundary.

## 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
<p><b>Organisational Operations and Reputational:</b> The proposal may be perceived as having detrimental impacts on the locality.</p>	Possible	Moderate	Medium	Mitigation of impacts is addressed through the implementation and adherence to an approved management plan.
<p><b>Opportunity:</b> Facilitate the sustainable development of the agricultural sector and maximise opportunities for diversification of agriculture and downstream processing. Approval of operations to supply gravel resources within proximity of rural areas with roads requiring upgrades, assists lowering costs of materials.</p>				

## FINANCIAL IMPLICATIONS

65. All costs associated with the development will be borne by the proponent.
66. 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

67. 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*.
68. 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

69. DWER are the responsible body for the assessment of the environmental impacts of the proposal.
70. There is no clearing proposed as part of this application, and there are no waterways within close proximity to the site.
71. DWER stipulated that it was the proponent’s responsibility for obtaining all necessary separate licences, approvals and permits before commencing any works on site.

## ALTERNATE OPTIONS

72. Council has the following alternate options in relation to this item, which are:
- a) To determine that the proposed use is unacceptable and to resolve to refuse the application; or
  - b) To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

**CONCLUSION**

- 73. The proposal is considered to be consistent with the objectives of the zone and the requirements of the City of Albany LPS1 and *Extractive Industries and Mining Policy*.
- 74. The matters raised in the public submissions have also been broadly addressed by the proponent and mitigated through the application of appropriate planning conditions.
- 75. On this basis, it is considered the proposal can be approved and appropriately managed through ongoing compliance with conditions and the City’s annual licence renewal process for Extractive Industries.
- 76. It is therefore recommended that Council approve the proposed development, subject to conditions.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>1. <i>Local Planning Scheme No. 1</i></li> <li>2. <i>Planning and Development (Local Planning Schemes) Regulations 2015</i></li> <li>3. <i>City of Albany Extractive Industries and Mining Policy</i></li> <li>4. <i>Environmental Protection (Noise) Regulations 1997</i></li> <li>5. <i>Environmental Protection Authority Separation Distances between Industrial and Sensitive Land Uses 2005</i></li> </ul>
<b>File Number (Name of Ward)</b>	:	A223228 (Kalgan Ward)
<b>Previous Reference</b>	:	Nil

**DIS364: NEW DRAFT LOCAL PLANNING POLICY 3.1: CARAVAN PARK AND TOURIST DEVELOPMENT USES IN THE RURAL OR PRIORITY AGRICULTURE ZONES – DRAFT LOCAL PLANNING SCHEME NO.2**

<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>	: Draft Local Planning Policy 3.1: Caravan Park and Tourist Development Uses in the Rural or Priority Agriculture Zones
<b>Report Prepared By</b>	: Coordinator Planning Services (J Wardell-Johnson)
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development and Environment (P Camins)

*The Officer Recommendation was reviewed in context of the City of Albany's Electoral Caretaker Period Policy, and the CEO has determined that it does not constitute a major policy decision. The CEO therefore recommended this report for Council's consideration.*

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed policy, Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2019* and *Strategic Community Plan – Albany 2032*.
3. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
  - **Pillar:** Place
  - **Outcome:** Interesting, vibrant and welcoming places.
  - **Pillar:** Planet
  - **Outcome:**
    - Sustainable management of natural areas; balancing conservation with responsible access and enjoyment; and
    - A resilient community that can withstand, adapt to, and recover from natural disasters.
  - **Pillar:** Prosperity
  - **Outcome:**
    - A strong, diverse and resilient economy with work opportunities for everyone; and
    - A highly sought-after tourist destination.
  - **Pillar:** Leadership
  - **Outcome:** Grow awareness, understanding and engagement in City projects, activities and decisions.

**In Brief:**

- To assist the implementation of LPS2, staff have identified specific provisions under draft LPS2 that require further guidance through the preparation of new local planning policies.
- Specifically, draft LPS2 allows for consideration of incidental Caravan Park and Tourist Development uses in the Priority Agriculture and Rural zones, subject to meeting specific requirements and submission of required documentation as part of a development application.
- To assist with the transition to the new local planning policy framework following gazettal of LPS2, including providing the community an opportunity as part of pre-consultation, staff have prepared draft Local Planning Policy 3.1: Caravan Park and Tourist Development Uses in the Rural or Priority Agriculture Zones for Council's consideration and endorsement for advertising.

**RECOMMENDATION**

**DIS364: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR GRIMMER**  
**SECONDED: COUNCILLOR SUTTON**

**THAT Council, in pursuance of Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to ENDORSE the draft Local Planning Policy 3.1: Caravan Park and Tourist Development Uses in the Rural or Priority Agriculture Zones for the purpose of advertising.**

**CARRIED 12-0**

**DIS364: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR SUTTON**  
**SECONDED: COUNCILLOR GRIMMER**

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

**CARRIED 11-0**

**DIS364: AUTHORISING OFFICER RECOMMENDATION**

**THAT Council, in pursuance of Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to ENDORSE the draft Local Planning Policy 3.1: Caravan Park and Tourist Development Uses in the Rural or Priority Agriculture Zones for the purpose of advertising.**

## BACKGROUND

4. In February 2023, Council resolved to advise the Western Australian Planning Commission (WAPC) that it supports the replacement of the existing Local Planning Scheme No.1 (LPS1), with a new Local Planning Scheme No.2 (LPS2).
5. Draft LPS2 was referred to the Statutory Planning Committee of the Western Australian Planning Commission (WAPC) on 15 August 2023. In accordance with *Planning and Development (Local Planning Schemes) Regulations 2015* (Planning Regulations) draft LPS2 is then referred to the Minister for review and endorsement, with gazettal expected later this year.
6. With the development of a new LPS2, the City needs to consider reviewing its policy position. Local Planning Policies guide decision making by helping users of a Local Planning Scheme to understand how a particular decision is likely to be exercised.
7. Draft LPS2 is considered to be a seriously entertained document under the local planning framework, therefore enabling the ability to prepare and undertake preliminary advertising of draft LPPs that are prepared in alignment with the new draft scheme.
8. It is considered that the benefits of being proactive outweigh the risk of advertising pre-gazettal, with policy guidance being developed early on to address specific matters of community interest such as the consideration for incidental Caravan Park and Tourist Development land uses in the Priority Agriculture and Rural zones.
9. Staff have therefore prepared draft LPP3.1 for Council consideration and endorsement to undertake preliminary advertising and stakeholder consultation, prior to formal gazettal of LPS2.
10. Draft LPP3.1 will be added to the City's current suite of local planning policies, that is currently undergoing substantive review, that includes identification of administrative updates as part of the implementation of draft LPS2.

## DISCUSSION

11. Draft LPS2 allows incidental Caravan Parks and Tourist Development land uses in the Priority Agriculture and Rural zones, including requirements and standards for the land use and zones.
12. Draft LPP3.1 has been prepared guide the assessment of proposals for Caravan Park and a Tourist Development land uses in the Rural and Priority Agriculture zones under draft LPS2, where they are incidental to the predominant agricultural activity on the site and within proximity to a tourist attraction or destination.
13. Caravan Park and Tourist Development land uses are defined under draft LPP3.1, draft LPS2, associated legislation (relating to Caravan Parks and Camping Grounds) as well the Planning Regulations (Model Provisions).
14. Draft LPP3.1 has been prepared to inform and provide guidance to Council, staff, the community, and proponents in the City's consideration of proposals and application of these standards, including:
  - Inclusions and exclusions of associated land uses and development permitted by draft LPS2 and addressed by the policy;
  - Ensuring the proposals are incidental in use and scale to the predominant agricultural activities, including maintaining the primacy of existing agricultural activities and demonstrating compatibility;
  - Considerations and requirements for the location, siting, design and operation of such land uses in the zones;
  - Preparation and implementation of management plans; and
  - Minimum development application requirements.

Land use

15. As outlined above, draft LPS2 includes provisions to enable consideration of Caravan Park and Tourist Development land uses in the Priority Agriculture and Rural zones of draft LPS2.
16. The Zoning Table of draft LPS2 designates these uses as 'I', meaning that a proposed Caravan Park or Tourist Development land use is required to be incidental to the current predominant use of the land.
17. The designation of Caravan Park and Tourist Development land uses as incidental:
  - Ensures that the priority of agricultural production and rural activities within these zones is maintained, and that operation of such proposals align with the applicable zone objectives; and
  - Provides the opportunity for further diversification of rural based activities such as rural based tourism, that provides economic benefits both to the proponent as well as the broader community.

Demonstrating compatibility and mitigating impacts on existing agricultural activities

18. Draft LPS2 outlines general development standards for Caravan Parks as well as specific development requirements for cabins/chalets as part of Tourist Development land uses in the Priority Agriculture and Rural zones.
19. The development standards and requirements outlined under draft LPS2 aim to mitigate the risk of impacts between and on existing agricultural activities on the subject site and with adjoining properties as well as the broader locality.
20. Caravan Parks and Tourist Development land uses are considered sensitive premises, and therefore draft LPP3.1 outlines requirements for development applications to demonstrate:
  - Compatibility of the proposal with existing predominant agricultural uses;
  - That the land is suitable for the proposal use, including scale, siting and design of the proposal; and
  - Considerations have been taken into account in relation to minimising environmental impact and mitigating vulnerability to natural hazards (such as coastal or bushfire).
21. To support this, draft LPP3.1 outlines the requirement for preparation and submission of management plan to accompany any development application. If approved, compliance with the management plan will be on ongoing condition of approval.

Advertising

22. Draft LPP3.1 does not contain specific requirements for advertising of proposed Caravan Park and Tourist Development land uses as they are proposed to be designated as 'I' under the Zoning Table for Priority Agriculture and Rural zones of draft LPS2. There are no minimum requirements for the advertising development proposals that involve an 'I' use, as the intention of the designation is to ensure uses that are small scale, low-key and incidental to the predominant land use of the land.
23. However, where in the officer's opinion there is potential impact by a development proposal on the environment and/or amenity of adjoining properties or the locality, draft LPS2 provides discretion to undertake advertising to further inform the local government's consideration of the proposal.

## GOVERNMENT & PUBLIC CONSULTATION

24. If the local government resolves to prepare a local planning policy the local government must, unless the Commission otherwise agrees, advertise the proposed policy. The period for making submissions must not be less than the period of 21 days after the day on which the notice is first published.
25. After the expiry of the period within which submissions may be made, the local government must review the proposed policy in the light of any submissions made; and resolve to proceed with the policy without modification; or proceed with the policy with modification; or not to proceed with the policy.
26. If the local government resolves to proceed with the policy, the local government must publish notice of the policy in accordance with clause 87. A policy has effect on publication of a notice.
27. The local government may make an amendment to a local planning policy without advertising the amendment if, in the opinion of the local government, the amendment is a minor amendment.
28. A local planning policy may be revoked by a notice of revocation.

## STATUTORY IMPLICATIONS

29. In accordance with the Planning Regulations:
  - (1) The local government may prepare a local planning policy in respect of any matter related to the planning and development of the Scheme area.
  - (2) A local planning policy may apply generally or in respect of a particular class or classes of matters specified in the policy; and may apply to the whole of the Scheme area or to part or parts of the Scheme area specified in the policy.
  - (3) A local planning policy must be based on sound town planning principles and may address either strategic or operational considerations in relation to the matters to which the policy applies.
  - (4) The local government may amend or repeal a local planning policy.
30. As outlined above, draft LPS2 is considered to be a seriously entertained document under the local planning framework, therefore enabling the ability to prepare and undertake preliminary advertising of draft LPPs that are prepared in alignment with the new draft scheme.
31. Staff have therefore prepared draft LPP3.1 for Council consideration and endorsement to undertake preliminary advertising and stakeholder consultation, prior to formal gazettal of LPS2.

## POLICY IMPLICATIONS

32. A Policy is a ‘due regard’ document and as such should not prescribe mandatory requirements in the way a Local Planning Scheme does.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputational</b> <i>Advertising the proposed policy could give rise to objectionable comments from community and/or landowners concerned with the proposed requirements.</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>Policy provisions are consistent with the scheme standards and requirements.</i>
<b>Opportunity:</b> <i>Ensure high-quality land use and development outcomes that align with zone objectives and potential detrimental impacts on environmental and amenity considerations are adequately mitigated.</i>				

**FINANCIAL IMPLICATIONS**

34. There are no financial implications beyond what will be used for notice of adoption.

**LEGAL IMPLICATIONS**

35. Subject to following the applicable processes set out under the Planning Regulations, there are no legal implications relating to preparing, amending or revoking policy positions.

**ENVIRONMENTAL CONSIDERATIONS**

36. There are no environmental implications relating to endorsing the proposed draft LPP3.1 for advertising.

**ALTERNATE OPTIONS**

37. Council has the following alternate options in relation to new policy preparation and amending policies:

- Agree to amend/prepare and advertise policy positions subject to modifications.
- Agree not to proceed with policy positions.

**CONCLUSION**

38. To assist with the transition to the new local planning policy framework following gazettal of LPS2, draft LPP3.1 has been prepared to inform and guide the assessment of requirements and standards of the planning scheme in relation to incidental Caravan Park and Tourist Development land uses in the Rural or Priority Agriculture Zones.

39. Council is requested to resolve to endorse draft LPP3.1 for preliminary advertising, as part of the implementation of draft LPS2 prior to gazettal.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme 1</i> 2. <i>Draft Local Planning Scheme 2</i> 3. <i>Planning and Development (Local Planning Schemes) Regulations 2015</i>
<b>Previous Reference</b>	:	DIS333

**DIS365: PANEL OF SUPPLIERS – EXTRUDED CONCRETE KERBING  
AND/OR ASPHALT**

<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: <b>Confidential Attachment Under Separate Cover</b>
<b>Report Prepared By</b>	: Operations Administration Coordinator (T Rogister)
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development & Environment (P Camins)

*The Officer Recommendation was reviewed in context of the City of Albany's Electoral Caretaker Period Policy, and the CEO has determined that it does not constitute a major policy decision. The CEO therefore recommended this report for Council's consideration.*

**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:** Place
  - **Outcome:** A safe, sustainable and efficient transport network.

**In Brief:**

- Tender to appoint preferred contractors to supply extruded concrete kerbing and/or asphalt to the City of Albany.
- The contract shall be for an initial period from 1<sup>st</sup> September 2023 or date of award (whichever occurs latest) until 31<sup>st</sup> August 2024, with a mutually agreed and price negotiated option to extend for a further one (1) year period, and then a final mutually agreed and price negotiated option to extend for a further one (1) year period.

**RECOMMENDATION**

**DIS365: RESOLUTION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

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

**THAT Council ACCEPT the tendered rates for Contract C23015 - Extruded Concrete Kerbing and/or Asphalt and appoint the following tenderers to the panel of suppliers:**

- **Albany Asphalt Services;**
- **R & L Bitumen;**
- **Jetline Kerbing and Contractors (kerbing only)**
- **WCP Civil (asphalt services only): and**
- **ATM Asphalt (asphalt services only).**

**CARRIED 12-0**

**DIS365: COMMITTEE RECOMMENDATION**

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

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

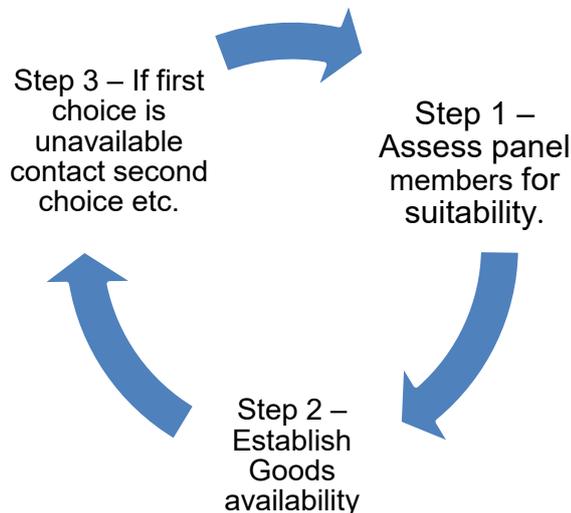
**CARRIED 11-0**

**DIS365: AUTHORISING OFFICER RECOMMENDATION**

THAT Council ACCEPT the tendered rates for Contract C23015 - Panel of Suppliers – Extruded Concrete Kerbing and/or Asphalt to the tenderers recommended by the evaluation panel, as detailed in the Confidential Briefing Note attached to this report.

**BACKGROUND**

2. The City of Albany (“the City”) is seeking to establish a “Panel of Suppliers” for the supply and application of:
  - a. Premixed concrete and the construction of extruded concrete kerbing along roads and car parks (“Concrete Works”); and
  - b. Hot mix asphalt on roads (“Asphalt Works”).
3. Tenderers had the option of tendering for either the Asphalt Works or Concrete Works portions of the contract, or both portions.
4. The City requires concrete and asphalt works to be completed from time to time. The supply of these goods and services shall be on an “as and when required” basis, and only when requested by purchase order.
5. Following is the Process Map of how the Panel Members will be engaged:



6. Utilising the panel arrangement has provided multiple businesses the opportunity of delivering these goods and services to the City. We have tried one supplier in past years, but they were unable to provide all the goods and services as and when required.
7. This Panel will be the City’s preferred supplier list and requests for supply of goods and services will be directed to members of this Panel before all others. However, the City reserves the right to engage other contractors should members of the Panel be unable to deliver. No guarantee will be given as to the amount of work that is required.

**DISCUSSION**

8. A total number of nine (9) tender documents were issued by the City of Albany.
9. Tenderers were asked to provide a schedule of rates to allow for prices to suit a range of kerbing requirements and/or for the supply of asphalt.
10. The tender documents included tender evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria are tabled below: -

<b>Criteria</b>	<b>% Weight</b>
Cost	40
Relevant Experience	20
Key Personnel skills and experience	15
Tenderer’s Resources	20
Corporate Social Responsibility	5
<b>Total</b>	<b>100%</b>

11. Six (6) completed tender documents were submitted on or before the stipulated closing date and time. As per Regulations, the tender documents stated that the City’s intention was to appoint up to five (5) Contractors to the Panel of Suppliers.
12. Three (3) Contractors have been selected for kerbing with Two (2) of those Contractors also recommended to supply asphalt services.
13. The following table summarises the recommended tenderers and overall evaluation scores applicable to each category. The rates have not been included in the table as these are “commercial in confidence” and will not be made publicly available.

<b>Tender (Kerbing)</b>	<b>Total Evaluation Score</b>
Tenderer A	645.41
Tenderer B	582.10
Tenderer C	546.24

<b>Tender (Asphalt)</b>	<b>Total Evaluation Score</b>
Tenderer A	808.05
Tenderer B	800.98
Tenderer C	787.80
Tenderer D	755.00
Tenderer E	377.50

**GOVERNMENT & PUBLIC CONSULTATION**

14. A request for tenderers was published in the West Australian on Wednesday 5<sup>th</sup> July 2023 and the Albany Extra on Friday 7<sup>th</sup> July 2023.

**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 \$250,000.00.
16. Regulation 18 of the Regulations outline 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. The Cit of Albany Tender Policy and Regional Price Preference Policy are applicable to this item.
19. The value of this tender is expected to be in excess of \$500,000.00 and therefore Council approval is required as this exceeds CEO's delegation.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Organisational Operations:</b> <i>Delays in achieving the capital works and maintenance program.</i>	<i>Unlikely</i>	<i>Major</i>	<i>High</i>	<i>Approve the recommended panel.</i>
<b>Reputational &amp; Financial:</b> <i>Not awarding a panel arrangement and appointing a single Contractor. City not obtaining competitive pricing.</i>	<i>Unlikely</i>	<i>Major</i>	<i>High</i>	<i>Approve the recommended panel. Public tender process ensures competitive pricing.</i>
<b>Legal &amp; Compliance:</b> <i>Non-compliance with Contract or business failure</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>General conditions of contract allow for contract termination on the basis of failure to supply goods and services.</i>
<b>Opportunity:</b> <i>To provide flexibility in project delivery.</i>				

**FINANCIAL IMPLICATIONS**

21. The estimated value of this tender is in excess of \$500,000.00 and therefore the approval is referred to Council for consideration.
22. Tenderers were required to provide a schedule of rates. The supply of products is budgeted for in the capital works and maintenance budgets. The tendered prices are within those allocations.

**LEGAL IMPLICATIONS**

23. Nil

**ENVIRONMENTAL CONSIDERATIONS**

24. Nil

**ALTERNATE OPTIONS**

25. Council can accept or reject the tenders as submitted.

**CONCLUSION**

26. The City has undergone a competitive process in line with the relevant legislation and established policies.

<b>Consulted References</b>	:	Local Government (Functions and General) Regulations 1996 Council Policy – Purchasing (Tenders & Quotes) Council Policy – Buy Local (Regional Price Preference)
<b>Previous Reference</b>	:	C22011

**DIS366: C23016 – PROVISION OF CLEANING SERVICES**

**Proponent / Owner** : City of Albany.  
**Attachments** : **Confidential Attachment Under Separate Cover.**  
**Report Prepared By** : Acting Operations Administration Coordinator  
(E Tomkinson)  
**Authorising Officer:** : Executive Director Infrastructure, Development and  
Environment (P Camins)

*The Officer Recommendation was reviewed in context of the City of Albany's Electoral Caretaker Period Policy, and the CEO has determined that it does not constitute a major policy decision. The CEO therefore recommended this report for Council's consideration.*

**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:**

- Council approval is sought to appoint the preferred tenderer to provide cleaning services for the City of Albany.
- The agreement is set to commence on October 1, 2023, and run until July 31, 2024. It includes a provision for an initial extension of twelve (12) months, subject to mutual agreement and negotiated pricing. Following this, there are subsequent options for three additional twelve (12) month extensions, with the final option being for another twelve (12) months.

**RECOMMENDATION**

7.53PM: Councillor Shanhun left the Chamber after declaring a Financial Interest in this item.

**DIS366: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

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

**THAT Council ACCEPT the tender RECOMMENDED by the evaluation panel in the Confidential Briefing Note and AWARD Contract C23016 – Provision of Cleaning Services to CGS Quality Cleaning.**

**CARRIED 11-0**

DIS366: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR STOCKS  
SECONDED: COUNCILLOR SMITH

That the Authorising Officer Recommendation be ADOPTED.

**CARRIED 10-0**

**DIS366: AUTHORISING OFFICER RECOMMENDATION**

THAT Council ACCEPT the tender RECOMMENDED by the evaluation panel in the Confidential Briefing Note and AWARD Contract C23016 – Provision of Cleaning Services.

**BACKGROUND**

2. Tenders were called for the Provision of Cleaning Services to City buildings for a period of up to four (4) years and ten (10) months. The tender is for the following Council buildings:
  - a) Albany Airport – 35615 Albany Highway
  - b) Albany Public Library – 221 York Street
  - c) Mercer Road Offices – 39 Mercer Road
  - d) Mercer Road Depot – 39 Mercer Road
  - e) Albany Regional Day Care Centre – Corner Grey & Collie Street
  - f) Lotteries House – 211-217 North Road
  - g) Administration Building – North Road
  - h) Albany Visitors Centre – 221 York Street
  - i) Vancouver Arts Centre – 85 Vancouver Street
  - j) Hanrahan Landfill Site/AWARE Centre – Cumming & Chester Pass Roads
  - k) National ANZAC Centre – 1347 Forts Road
  - l) Albany Leisure and Aquatic Centre – Barker Road
  - m) Bakers Junction Weigh Bridge Office – 1206 Chester Pass Road
  - n) Mary Thompson House – 85 Vancouver Street
  - o) Albany Town Hall – 217 York St
  - p) Turf Grounds Shed – Barker Road
  
3. The current contract expires 30 September 2023

**DISCUSSION**

4. Tender documents were evaluated using the weighted attribute method. This method scores the evaluation criteria and weighs their importance to determine an overall point score for each tender. The criteria are tabled below: -

<b>Criteria</b>	<b>% Weight</b>
Cost	30
Relevant Experience	25
Key Personnel skills and experience	20
Tenderer's Resources	20
Corporate Social Responsibility	5
<b>Total</b>	<b>100</b>

5. A total number of fourteen (14) tender documents were issued with two (2) completed tender documents submitted on or before the stipulated closing date and time.
6. The following table summarises the tenderers and the overall evaluation scores applicable.

<b>Tenderer</b>	<b>Weighted Score</b>
Tenderer A (Preferred)	659.22
Tenderer B	540.78

## GOVERNMENT & PUBLIC CONSULTATION

7. A request for tenders was published in the West Australian on 26 July 2023 and the Albany Extra on 28 July 2023.

## STATUTORY IMPLICATIONS

8. 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 \$250,000.00.
9. Regulation 18 of the Regulations outlines a number of requirements relating to the 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.
10. Regulation 19 of the Regulations requires the Council to advise each tenderer in writing the result of the Council's decision.

## POLICY IMPLICATIONS

11. The City of Albany Tender Policy and Regional Price Preference Policy are applicable to this item.
12. The value of this tender is expected to exceed \$500,000.00; therefore, Council approval is required as this exceeds the CEO's delegation.

## 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>Community:</b> <i>Contractors failing to turn up to complete their cleaning duties at a public/community site, for example; Library, Airport or ALAC.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>The cleaning communication booklet clearly outlines tasks and frequency. Facility Managers are responsible for ensuring those tasks are undertaken and communicating any performance issues to the Responsible Officer.</i>
<b>Operational:</b> <i>Non-compliance delay or failure to carry out contracted works.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>General Conditions of contract allow for contracted termination on the basis of failure to supply services.</i>
<b>People Health &amp; Safety:</b> <i>Failure to clean sites to relevant public health standards.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Facility Managers undertake monthly cleaning inspections with the Contractor to ensure public health standards are met.</i>
<b>Property:</b> <i>Contract personnel have access to City facilities after hours and could access confidential information or loss of property items.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Importance is given to the experience and reliability of the tenderer in the evaluation process.</i>
<b>Reputational:</b> <i>Community dissatisfied with the standard of cleanliness of a facility.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>General conditions of contract allow for contract termination on the basis of failure to supply services.</i>
<b>Opportunity:</b> <i>To support local business and offer a regional opportunity for employment</i>				

## FINANCIAL IMPLICATIONS

14. Each location maintains individual operational budgets for cleaning purposes with the tendered price being shared across the organisation. Each directorate and facility manager has provided for cleaning services in their respective operational budgets as required.
15. The value of the tender is more than \$500,000.00, which exceeds officer delegation; therefore, the approval is referred to Council for consideration.

## LEGAL IMPLICATIONS

16. Nil

**ENVIRONMENTAL CONSIDERATIONS**

17. Nil

**ALTERNATE OPTIONS**

18. Council may accept or reject the tenders as submitted.

**CONCLUSION**

19. The City has undergone a competitive process in line with the relevant legislation and established policies.
20. On reviewing the submissions, the evaluation team assessed Tenderer A as the most advantageous tenderer across the evaluation criteria for providing the City’s cleaning services. It is recommended that the nominated tenderer be accepted.

<b>Consulted References</b>	:	Local Government (Functions and General) Regulations 1995 Council Policy – Purchasing (Tenders & Quotes) Council Policy – Buy Local (Regional Price Preference)
<b>File Number</b>	:	C23016
<b>Previous Reference</b>	:	C20008

7.54PM: Councillor Shanhun returned to the Chamber. Councillor Shanhun was not present during the discussion and the vote for this item.

**DIS367: PLANNING AND BUILDING REPORTS AUGUST 2023**

**Proponent / Owner** : City of Albany.  
**Attachments** : Planning and Building Reports August 2023  
**Report Prepared By** : Technical Support Officer (P Ruggera)  
**Authorising Officer:** : Manager Planning and Building Services  
(J van der Mescht)

*The Officer Recommendation was reviewed in context of the City of Albany's Electoral Caretaker Period Policy, and the CEO has determined that it does not constitute a major policy decision. The CEO therefore recommended this report for Council's consideration.*

**RECOMMENDATION**

**DIS367: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

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

**THAT the Planning and Building Reports for August 2023 be NOTED.**

**CARRIED 12-0**

**DIS368: C23003 CONSTRUCTION OF MOTOCROSS CLUBROOM AND ASSOCIATED INFRASTRUCTURE ALBANY MOTORSPORT PARK**

<b>Land Description</b>	: Lot 5780, 54 Down Road, Drome
<b>Proponent / Owner</b>	: City of Albany
<b>Business Entity Name</b>	: Great Southern Motorplex Group Incorporated.
<b>Attachments</b>	: <b>Confidential Briefing Note</b>
<b>Report Prepared By</b>	: Manager Major Projects (A. McEwan) & Project Officer (M. Randall)
<b>Authorising Officer:</b>	: Executive Director Infrastructure & Environment (P. Camins)

*The Officer Recommendation was been reviewed in context of the City of Albany's Electoral Caretaker Period Policy, and the CEO determined that it does not constitute a major policy decision. The CEO therefore recommended this report for Council's consideration.*

**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:** People
  - **Outcome:** A diverse and inclusive community
  - **Pillar:** Place
  - **Outcome:** Responsible growth, development and urban renewal; and Interesting, vibrant and welcoming places
  - **Pillar:** Prosperity
  - **Outcome:** A highly sought-after tourist destination

**Maps and Diagrams:**

**Aerial photograph of Albany Motorsport Park**



**In Brief:**

- Following a competitive tender process, Council approval is sought to award Contract C23003 – Construction of Motocross Clubroom and Associated Infrastructure, Albany Motorsport Park to Tenderer A.

**RECOMMENDATION**

**7.55PM**

**RESOLUTION**

**VOTING REQUIREMENT:**

**MOVED: COUNCILLOR TERRY**

**SECONDED: COUNCILLOR SMITH**

**THAT in accordance with Clause 4.1 of the City of Albany Standing Orders Local Law 2014 (as amended) the meeting be closed to members of the public.**

**CARRIED 12-0**

**7.58PM**

**RESOLUTION**

**VOTING REQUIREMENT:**

**MOVED: COUNCILLOR SMITH**

**SECONDED: COUNCILLOR THOMSON**

**THAT the meeting be re-opened to members of the public.**

**CARRIED 12-0**

**DIS368: RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SUTTON**

**SECONDED: COUNCILLOR GRIMMER**

**THAT Council ACCEPT the tender RECOMMENDED by the evaluation panel in the Confidential Briefing Note and AWARD Contract C23003 – Construction of Motocross Clubroom and Associated Infrastructure, Albany Motorsport Park Tender to Wauters Enterprises.**

**CARRIED 12-0**

**BACKGROUND**

2. Tenders were called for Construction of Motocross Clubroom and Associated Infrastructure, Albany Motorsport Park
3. The tender requires that the successful Tenderer carry out all works in accordance with every detail of the Request for Tender Documents for the completion of the Motocross Clubroom and Associated Infrastructure construction at the Albany Motorsports Park.
4. It is preferable to commence construction at the earliest possible time to ensure completion in accordance with various funding sponsor requirements, and the commencement of the May 2024 Motocross season.
5. The City of Albany are project managing the delivery of this project on behalf of developer, the Great Southern Motorplex Group (GSMG).

**DISCUSSION**

6. The standard tender process as prescribed by the Local Government Act 1995 (the Act) and Local Government (Function and General) Regulations 1996 (the Regulations).
7. Tenders were advertised both state-wide and locally and closed on 8 September 2023.
8. Sixteen (16) tender documents were downloaded from the City of Albany website, with the City receiving three (3) conforming tenders.

**Evaluation of Tenders**

9. The tender panel evaluated tenders using the weighted criteria methodology across four (4) key areas, shown in Table 1 – Evaluation Criteria

Criteria	% Weighting
Key Personnel Skills & Relevant Experience	25%
Demonstrated Understanding	30%
Corporate Social Responsibility	5%
Cost	40%

10. The following table summarises the tenderers and the overall evaluation scores applicable.

Table 2 – Submissions

Tenderer	Total	Rank
Tenderer A	754.96	1
Tenderer B	673.38	2
Tenderer C	546.66	3

11. Wauters Enterprises and Tenderer B claimed the maximum Buy Local Policy reduction of \$50,000.
12. Wauters Enterprises ranked highest.
13. A clarification process was undertaken to confirm the submissions received.
14. From the evaluation scoring, clarification, interview, negotiation, reference and financial check processes, Wauters Enterprises are the preferred tenderer and consequently it is recommended that their tender be accepted and the contract be awarded.
15. The developer, the Great Southern Motorplex Group are supportive of the recommendation to award the tender to Wauters Enterprises.

**GOVERNMENT & PUBLIC CONSULTATION**

16. There is no government consultation required for the award of the Motocross Track and Associated Civil Infrastructure, Albany Motorsport Park.
17. The development was approved through the JDAP process which included both government and public consultation.
18. All necessary approvals will be obtained prior to the commencement of construction. i.e. building licences and Department of Health approval.
19. The funding bodies will be notified with regard to the outcome of the award, timeframe for implementation and project expenditure through milestone reporting processes.

20. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Inform	Mail Out	<b>16th November 2022:</b> Letter regarding the commencement of Stage 1 and a community update flyer attachment with details.	Residents within 2km of the site	As per the requirements of the Development Approval

**STATUTORY IMPLICATIONS**

21. Regulation 11 of the Regulations requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$250,000.00
22. 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.
23. Regulation 19 of the Regulations requires Council to advise each tenderer in writing of Council’s decision.
24. Voting Requirement: **Simple Majority.**

**POLICY IMPLICATIONS**

25. The City of Albany Purchasing Policy and Regional Price Preference Policy are applicable to this item.
26. The value of this tender is in excess of \$500,000.00 and therefore Council approval is required as this exceeds the CEO’s delegation.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>City Operations and Financial</b> <i>Risk: Failure to deliver project within specified timeframe may jeopardize the funding agreement.</i>	Possible	Major	High	Award tender as soon as possible to enable the construction to commence to satisfy funding conditions.
<b>Business Interruption</b> <i>Risk: Appointment of the recommended tenderer is not supported.</i>	Possible	Major	High	City staff to work with preferred tenderer to address any concerns prior to awarding the tender.
<b>Opportunity:</b> Project developed and delivered on time for the benefit of the club, community and its users.				

**FINANCIAL IMPLICATIONS**

28. The recommended tender is within overall project budget.
29. The value of this tender is in excess of \$500,000.00 and therefore the approval is referred to Council for consideration.

**LEGAL IMPLICATIONS**

30. Responsibility has been assigned to ensure contractual terms for all aspects of this project are applied.

**ENVIRONMENTAL CONSIDERATIONS**

- 31. Should the tender be awarded, the contractor will consider environmental responsibilities as they relate to the approved project development. This shall include the provision of an approved Site Specific Construction and Environmental Management Plan in accordance with the Development Approval conditions.
- 32. No environmental permits are required for this contract prior to construction.

**ALTERNATE OPTIONS**

- 33. The options are:
  - a. Council may choose to accept the recommended tender, or
  - b. Not approve any tender.

**CONCLUSION**

- 34. The City has undergone a competitive process in line with the relevant legislation and established policies.
- 35. It is recommended, based on the evaluation scoring, clarification, reference and financial check processes that the tender be awarded to Wauters Enterprises.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• <i>Local Government Act 1995</i></li> <li>• <i>Local Government (Functions and General) Regulations 1996</i></li> <li>• Council Policy: Purchasing Policy (Tenders and Quotes)                             <ul style="list-style-type: none"> <li>○ Tender Procedure</li> <li>○ Evaluation Procedure (Tenders and Quotations)</li> </ul> </li> </ul> Council Policy: City of Albany Buy Local Policy (Regional Price Preference)
<b>File Number (Name of Ward)</b>	:	RC.PJT.2
<b>Previous Reference</b>	:	Briefing Note – 11 May 2021 Presentation to Council – 12 May 2021 Presentation to Council – 1 December 2021 Presentation to Council – 8 June 2022 Council Confidential Briefing Note DIS307 – 13 July 2022 Presentation to Council – 3 November 2022 Council Site Briefing – 25 May 2023 Council Briefing Note – September 2023

**BFAC014: APPOINTMENT OF CHIEF AND DEPUTY CHIEF BUSH FIRE CONTROL OFFICERS AND BUSH FIRE BRIGADE FIRE CONTROL OFFICERS FOR THE 2023-24 FIRE SEASON**

<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: Minutes of the Bush Fire Advisory Group Meeting
<b>Authorising Officer:</b>	: Executive Director Corporate & Commercial Services (M Gilfellon)

*The Officer Recommendation was reviewed in context of the City of Albany's Electoral Caretaker Period Policy, and the CEO has determined that it does not constitute a major policy decision. The CEO therefore recommended this report for Council's consideration.*

**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.
  - **Pillar:** People.
  - **Outcome:** A safe community.
  - **Pillar:** Planet.
  - **Outcome:** A resilient community that can withstand, adapt to, and recover from natural disasters.

**In Brief:**

- Nominations for essential leadership positions have been received and accepted from Volunteer Bush Fire Brigade members.
- Council is now requested to endorse those appointments.

**RECOMMENDATION**

**BFAC014: RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SMITH**

**SECONDED: COUNCILLOR SHANHUN**

**THAT the following appointments to essential leadership positions in the City of Albany's Volunteer Bush Fire Brigades be ENDORSED:**

- **Chief Bush Fire Control Officer: Mr Rob Lynn**
- **Deputy Chief Bush Fire Control Officer: Mr Graeme Poole**
- **Senior Bush Fire Control Officer North East Sector: Mr John Howard**
- **Senior Bush Fire Control Officer South West Sector: Mr Darryl Bradley**
- **Deputy Senior Bush Fire Control Officer North East Sector: Ms Deb Pyle**
- **Deputy Senior Bush fire Control Officer South West Sector: Mr Simon Whitfort**
- **Bornholm Brigade Fire Control Officers: Mr Chris Ayres and Mr Laurie Nissen**
- **Elleker Brigade Fire Control Officer: Miss Maxine Jones and Mr Wayne van der Heide**
- **Gnowellen Brigade Fire Control Officers: Mr Scott Moir and Mr Jeffrey Stoney**
- **Green Range Brigade Fire Control Officers: Mr Mark Plunket and Mr Jeremy Walker**
- **Highway Brigade Fire Control Officers: Mr Ben Braun and Mr Juan Hart**
- **Kalgan Brigade Fire Control Officers: Mr Darryl Bradley, Mr Clayton De Jager**
- **King River Brigade Fire Control Officers: Mr Simon Whitfort and Mr Malcolm Pearce**
- **Kojaneerup Brigade Fire Control Officers: Mr Ashton Hood and Mr Scott Smith**
- **Manypeaks Brigade Fire Control Officers: Mr Kim Lester and Mr Tim Metcalfe**
- **Napier Brigade Fire Control Officers: Mr Tom Collins and Mr Kim Roberts**
- **Redmond Brigade Fire Control Officers: Mr Pieter Mostert and Mr Troy Mostert**
- **South Coast Brigade Fire Control Officers: Mr Rowan Hardy and Mr Shane Duncan**
- **South Stirling Brigade Fire Control Officers: Mr Graeme Pyle and Mr Reece Curwin**
- **Torbay Brigade Fire Control Officer: Mr Brian Taylor and Mr Leith Nicholson**

- **Wellstead Brigade Fire Control Officer: Mr Matthew Wood and Mr James Gorman**
  - **Youngs Siding Brigade Fire Control Officers: Mr Kevin Martin and Mr Martin Peterson.**
- CARRIED 12-0**

**BFAC014: COMMITTEE RECOMMENDATION**

MOVED: MR PIETER MOSTERT

SECONDED: MR ROB LYNN

THAT the following appointments to essential leadership positions in the City of Albany's Volunteer Bush Fire Brigades be ENDORSED:

- Chief Bush Fire Control Officer: Mr Rob Lynn
- Deputy Chief Bush Fire Control Officer: Mr Graeme Poole
- Senior Bush Fire Control Officer North East Sector: Mr John Howard
- Senior Bush Fire Control Officer South West Sector: Mr Darryl Bradley
- Deputy Senior Bush Fire Control Officer North East Sector: Ms Deb Pyle
- Deputy Senior Bush fire Control Officer South West Sector: Mr Simon Whitfort
- Bornholm Brigade Fire Control Officers: Mr Chris Ayres and Mr Laurie Nissen
- Elleker Brigade Fire Control Officer: Miss Maxine Jones and Mr Wayne van der Heide
- Gnowellen Brigade Fire Control Officers: Mr Scott Moir and Mr Jeffrey Stoney
- Green Range Brigade Fire Control Officers: Mr Mark Plunket and Mr Jeremy Walker
- Highway Brigade Fire Control Officers: Mr Ben Braun and Mr Juan Hart
- Kalgan Brigade Fire Control Officers: Mr Darryl Bradley, Mr Clayton De Jager
- King River Brigade Fire Control Officers: Mr Simon Whitfort and Mr Malcolm Pearce
- Kojaneerup Brigade Fire Control Officers: Mr Ashton Hood and Mr Scott Smith
- Manypeaks Brigade Fire Control Officers: Mr Kim Lester and Mr Tim Metcalfe
- Napier Brigade Fire Control Officers: Mr Tom Collins and Mr Kim Roberts
- Redmond Brigade Fire Control Officers: Mr Pieter Mostert and Mr Troy Mostert
- South Coast Brigade Fire Control Officers: Mr Rowan Hardy and Mr Shane Duncan
- South Stirling Brigade Fire Control Officers: Mr Graeme Pyle and Mr Reece Curwin
- Torbay Brigade Fire Control Officer: Mr Brian Taylor and Mr Leith Nicholson
- Wellstead Brigade Fire Control Officer: Mr Matthew Wood and Mr James Gorman
- Youngs Siding Brigade Fire Control Officers: Mr Kevin Martin and Mr Martin Peterson.

**CARRIED 7-0**

**BACKGROUND**

2. The City of Albany has sixteen Volunteer Bush Fire Brigades, comprising approximately 874 active and auxiliary members who provide bush fire-fighting capacity throughout the municipality.
3. In accordance with the *Bush Fires Act 1954*, the City must appoint a Chief Bush Fire Control Officer, Deputy Bush Fire Control Officer and Fire Control Officers prior to the commencement of each fire season.
4. Nominations for those positions are called for through the Bush Fire Advisory Group (BFAG), and appointments to those positions are made. If multiple nominations are received for any position a ballot is conducted.
5. Final appointment of those officers is authorised by the City of Albany Chief Executive Officer, exercising his delegated authority by Council.

**DISCUSSION**

6. Nominations for the positions of Chief Bush Fire Control Officer, Deputy Chief Bush Fire Control Officer and Fire Control Officers were received by the Bush Fire Advisory Group (BFAG).
7. The BFAG have recommended the appointments detailed in the Authorising Officer Recommendation of this report.
8. These appointments remain in force until the end of the 2023-24 fire season.

**GOVERNMENT & PUBLIC CONSULTATION**

9. N/A

**STATUTORY IMPLICATIONS**

10. Appointments are made in accordance with the *Bush Fires Act 1954*.
11. Local governments are empowered by Section 38 of the *Bush Fires Act 1954* to appoint such persons as are necessary to perform the duties associated with a Bush Fire Control Officer.

**POLICY IMPLICATIONS**

12. N/A

**RISK IDENTIFICATION & MITIGATION**

13. Not applicable to this report.

**FINANCIAL IMPLICATIONS**

14. Not applicable to this report.

**LEGAL IMPLICATIONS**

15. Not applicable to this report.

**ALTERNATE OPTIONS**

16. There are no alternate options applicable to this report.

**CONCLUSION**

17. That Council endorse the appointments of Bush Fire Control Officers for the 2023-24 fire season.

<b>Consulted References</b>	:	<i>Bush Fires Act 1954</i>
<b>Previous Reference</b>	:	CCS484 August 2022

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**

DIS368: C23003 MOTOCROSS CLUB ROOM AND ASSOCIATED INFRASTRUCTURE,  
ALBANY MOTOSPORT PARK

**18. CLOSURE**

There being no further business the Mayor declared the meeting closed at **8.01PM**.

*(Unconfirmed Minutes)*

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Dennis W Wellington  
**MAYOR**