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# AGENDA

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Ordinary Meeting of Council

Tuesday 27 October 2020

6.00pm  
Council Chambers

ORDINARY COUNCIL MEETING  
AGENDA 27/10/2020  
CITY OF ALBANY  
COMMUNITY STRATEGIC PLAN (ALBANY 2023)



NOTICE OF AN ORDINARY COUNCIL MEETING

Dear Mayor and Councillors

The next Ordinary Meeting of the City of Albany will be held on Tuesday 27 October 2020 in the Council Chambers, 102 North Road, Yakamia commencing at 6.00pm.

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Andrew Sharpe  
CHIEF EXECUTIVE OFFICER

ORDINARY COUNCIL MEETING  
AGENDA 27/10/2020

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1. DECLARATION OF OPENING

2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

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

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

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

3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

Mayor

D Wellington

**Councillors:**

Breaksea Ward

R Hammond

Breaksea Ward

P Terry

Frederickstown Ward

R Stephens

Frederickstown Ward

G Stocks (Deputy Mayor)

Kalgan Ward

E Doughty

Kalgan Ward

M Benson-Lidholm JP

Vancouver Ward

J Shanhun

West Ward

A Goode JP

West Ward

S Smith

Yakamia Ward

R Sutton

Yakamia Ward

C Thomson

**Staff:**

Chief Executive Officer

A Sharpe

Executive Director Corporate & Commercial Services

D Olde

Executive Director Infrastructure, Development  
& Environment

P Camins

Acting Executive Director Community Services

N Watson

Manager Planning and Building Services

J Van Der Mescht

Meeting Secretary

J Williamson

**Apologies:**

Vancouver Ward

T Sleeman (Leave of Absence)

ORDINARY COUNCIL MEETING  
AGENDA 27/10/2020

4. DISCLOSURES OF INTEREST

Name	Report Item Number	Nature of Interest
Councillor Thomson	CCS298	<b>Impartiality.</b> The nature of the interest being that Councillor Thomson was a signatory to the petition requesting the City of Albany to sign the WALGA declaration on climate change.

5. REPORTS OF MEMBERS

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE Nil

7. PUBLIC QUESTION TIME

8. APPLICATIONS FOR LEAVE OF ABSENCE

9. PETITIONS AND DEPUTATIONS

DRAFT MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the Petition lodged by Mr Adrian Wait requesting that the City of Albany promote and support the construction of a dual use/cycle path from Hanrahan Road along the Vancouver Peninsula be RECEIVED.

10. CONFIRMATION OF MINUTES

DRAFT MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the minutes of the Ordinary Council Meeting held on 22 September 2020, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

11. PRESENTATIONS Nil

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

**CCS293: NOMINATION TO SOUTH COAST ALLIANCE INC.**

<b>Proponent / Owner</b>	: City of Albany
<b>Report Prepared By</b>	: Senior Team Leader Records/Council Liaison (J Williamson)
<b>Responsible Officers:</b>	: Chief Executive Officer (A Sharpe)

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** Leadership.
  - **Objective:** To establish and maintain sound business and governance structures.
  - **Community Priority:**
    - Implement systems and controls that ensure the prudent use of rates and ensure value for money in all aspects of Council operations.
    - Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflects the level of associated risk and is adequately explained to the community.

**In Brief:**

- Councillor Stephens has formally tendered her resignation as a representative on the South Coast Alliance Inc.
- Nominations are called for to fill this vacant position.

**RECOMMENDATION**

**CCS293: RESPONSIBLE OFFICER RECOMMENDATION  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT nominations be called to fill the vacancy on the South Coast Alliance Inc. at the Ordinary Council Meeting to be held on 27 October 2020 as the two nominations received from Councillor Thomson and Councillor Terry resulted in a tied vote.**

**BACKGROUND**

2. At the Ordinary Council Meeting held on 31 October 2017, Councillor Stephens nominated for, and was appointed to, the South Coast Alliance Inc.
3. Councillor Stephens formally tendered her resignation from the South Coast Alliance Inc. on 17 September 2020.
4. In accordance with section 5.11(1)(d) of the *Local Government Act 1995*, a person's membership of a Committee is valid until the next local government election.
5. At the Ordinary Council Meeting held on 29 October 2019, Council were advised that appointments to the South Coast Alliance Inc. made at the OCM held on 31 October 2017 would continue.
6. Further advice to Council stated that there may changes to the number of local government representatives for the Alliance, and that a further report would be provided to Council regarding this matter in due course.

## DISCUSSION

7. The Alliance is comprised of representatives from the City of Albany, Shire of Denmark, Shire of Jerramungup and Shire of Plantagenet. The Alliance promotes collaborative development in the region, and advocates for economic development, tourism and resource efficiency.
8. Representation from the City of Albany is comprised of the Mayor and two elected members.
9. Current members are Mayor Wellington, Councillor Stephens and Councillor Stocks.

## GOVERNMENT & PUBLIC CONSULTATION

10. N/A

## STATUTORY IMPLICATIONS

11. In accordance with s5.11(1)(d) of the *Local Government Act 1995*, a person's membership of a committee continues until the next ordinary local government election.
12. Appointment to committees is by **Absolute Majority** in accordance with s5.10 of the Act.

## POLICY IMPLICATIONS

13. N/A

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Business Operation</b> <b>Risk:</b> No nominations are received and a member is not appointed to the South Coast Alliance Inc. to fill the current vacancy.	Unlikely	Moderate	Medium	<i>The Mayor and Councillor Stocks will continue to represent the City on the South Coast Alliance Inc. Nominations may be called for at the next Ordinary Council Meeting.</i>

## FINANCIAL IMPLICATIONS

15. A budget line exists for the cost of administering committees, including representation on external committees.
16. Together with the other three South Coast Alliance Inc. Local Government members, the City makes a direct financial contribution towards the operational costs of the entity.

## LEGAL IMPLICATIONS

17. N/A

## ENVIRONMENTAL CONSIDERATIONS

18. N/A

Consulted References	:	• <i>Local Government Act 1995</i>
File Number (Name of Ward)	:	All Wards
Previous Reference	:	OCM 31/10/2017 CCS067 OCM 29/10/2019 CCS185

**CCS294: FINANCIAL ACTIVITY STATEMENT – AUGUST 2020**

<b>Proponent</b>	: City of Albany
<b>Attachments</b>	: Statement of Financial Activity
<b>Report Prepared by</b>	: Manager Finance (S Van Nierop)
<b>Responsible Officer</b>	: Executive Director Corporate & Commercial Services (D Olde)

**RECOMMENDATION**

**CCS294: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the Financial Activity Statement for the period ending 30 August 2020 be RECEIVED.**

**CCS294: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR SUTTON  
SECONDED: MAYOR WELLINGTON**

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

**CARRIED 10-0**

**CCS294: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT the Financial Activity Statement for the period ending 30 August 2020 be RECEIVED.**

**COVID-19 IMPACT**

- Impacts to the financial performance of the City are detailed in the 'Explanation of Material Variances to the YTD Budget in Excess of \$100,000' (Note 1) of the Attachment to this report (Statement of Financial Activity).

**BACKGROUND**

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

**DISCUSSION**

3. In accordance with section 34(1) of the *Local Government (Financial Management) Regulations 1996*, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
4. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide elected members with a greater insight in relation to the ongoing financial performance of the local government.
5. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. Variations in excess of \$100,000 are reported to Council.
6. These financial statements are still subject to further yearend adjustments and have not been audited by the appointed auditor.



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

## **STATUTORY IMPLICATIONS**

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

## **POLICY IMPLICATIONS**

8. The City's 2020/21 Annual Budget provides a set of parameters that guides the City's financial practices.
9. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

## **FINANCIAL IMPLICATIONS**

10. Expenditure for the period ending 30 August 2020 has been incurred in accordance with the 2020/21 proposed budget parameters.
11. Details of any budget variation in excess of \$100,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

<b>File Number (Name of Ward)</b>	FM.FIR.7 - All Wards
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**CCS295: LIST OF ACCOUNTS FOR PAYMENT – SEPTEMBER 2020**

**Business Entity Name** : City of Albany  
**Attachments** : List of Accounts for Payment  
**Report Prepared By** : Manager Finance (S Van Nierop)  
**Responsible Officers:** : Executive Director Corporate and Commercial Services  
(D Olde)

**RECOMMENDATION**

**CCS295: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 September 2020 totalling \$3,729,378.59 be RECEIVED.**

**CCS295: COMMITTEE RECOMMENDATION**

MOVED: COUNCILLOR SLEEMAN  
SECONDED: COUNCILLOR STEPHENS

THAT the Responsible Officer be ADOPTED.

CARRIED 10-0

**CCS295: RESPONSIBLE OFFICER RECOMMENDATION**

THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 September 2020 totalling \$3,729,378.59 be RECEIVED.

**BACKGROUND**

1. Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the City's municipal and trust funds. In accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid by the Chief Executive Officer is to be provided to Council.

**DISCUSSION**

2. The table below summarises the payments drawn from the municipal fund for the period ending 15 September 2020. Please refer to the Attachment to this report.

<b>Municipal Fund</b>	
Trust	\$0.00
Credit Cards	\$90.00
Payroll	\$1,454,660.97
Cheques	\$919.34
Electronic Funds Transfer	\$2,273,708.28
<b>TOTAL</b>	<b>\$3,729,378.59</b>

As at 15 September 2020, the total outstanding creditors stands at \$1,456,501.46 and is made up as follows;

Current	\$300,690.05
30 Days	\$1,145,593.42
60 Days	\$10,254.42
90 Days	-\$36.43
<b>TOTAL</b>	<b>\$1,456,501.46</b>
<b>Cancelled Cheques</b>	<b>Nil</b>

### STATUTORY IMPLICATIONS

3. 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.
4. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.
5. Regulation 13 of the *Local Government (Financial Management) Regulations 1996* provides that if the function of authorising payments is delegated to the Chief Executive Officer, then a list of payments must be presented to Council and recorded in the minutes.

### POLICY IMPLICATIONS

6. Expenditure for the period to 15 September 2020 has been incurred in accordance with the 2019/2020 budget parameters.

### FINANCIAL IMPLICATIONS

7. Expenditure for the period to 15 September 2020 has been incurred in accordance with the 2019/2020 budget parameters.

### CONCLUSION

8. That list of accounts have been authorised for payment under delegated authority.
9. 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>File Number (Name of Ward)</b>	<b>:</b>	FM.FIR.2 - All Wards
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## **CCS296: DELEGATED AUTHORITY REPORTS – AUGUST TO SEPTEMBER 2020**

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

### **BACKGROUND:**

In compliance with Section 9.49A of the *Local Government Act 1995* and Part IV of the *Local Government (Functions and General) Regulations 1996* 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 (Chief Executive Officer)
- Delegation: 009 - GRANT FUNDING, DONATIONS, SPONSORSHIP
- Delegation: 018 - CHOICE OF TENDER, AWARD CONTRACT

### **RECOMMENDATION**

#### **CCS296: RESPONSIBLE OFFICER RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the Delegated Authority Reports 16 August 2020 to 15 September 2020 be RECEIVED.**

#### **CCS296: COMMITTEE RECOMMENDATION**

MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR BENSON-LIDHOLM

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 10-0

#### **CCS296: RESPONSIBLE OFFICER RECOMMENDATION**

THAT the Delegated Authority Reports 16 August 2020 to 15 September 2020 be RECEIVED.

### **COVID-19 IMPACT**

- COVID-19 has no impact on this report.

**CCS297: VARIATION TO EXISTING LEASE AND NEW GROUND FLOOR LEASE FOR REGIONAL UNIVERSITY CENTRE – REGIONAL DEVELOPMENT AUSTRALIA GREAT SOUTHERN WA INC.– ALBANY CO-OPERATIVE SOCIETY BUILDING – PORTION RESERVE 42401**

<b>Land Description</b>	: Crown Reserve 42401, Lot 1411 on Diagram 26101 the subject of Certificate of Title Volume LR3123 Folio 712, Albany.
<b>Proponent</b>	: Regional Development Australia Great Southern WA Inc.
<b>Owner</b>	: Crown (City of Albany under Management Order)
<b>Report Prepared By</b>	: Team Leader Property and Leasing (T Catherall)
<b>Responsible Officers:</b>	: Executive Director Corporate and Commercial Services (D Olde)

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** Leadership.
  - **Objective:** To establish and maintain sound business and governance structures.
  - **Community Priority:** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflect the level of associated risk and are adequately explained to community.
- **Theme:** Smart Prosperous & Growing
- **Objective:** To develop a smart City that supports economic growth.
- **Community Priority:** Partner with learning networks, schools and training providers to deliver education and training programs that support families and encourage a culture of lifelong learning.

**Maps and Diagrams:**



**In Brief:**

- Council is requested to consider a variation to existing lease with Regional Development Australia, Great Southern WA (RDA) to remove the licence hire provisions for the ground floor of the Albany Co-operative Society building (Co-op building) located within Reserve 42401.
- This will allow for a new lease over the ground floor plus the surrounding area of Reserve 42401 comprising carpark and grounds to RDA for the purpose of establishing and operating a Regional University Centre (RUC).
- RDA currently occupy the Co-op building under lease for office space on the first floor and manage the hiring of community meeting space under licence arrangements for the ground floor.
- RDA have secured Commonwealth funding to establish a RUC in Albany for regional students to access online tertiary courses.
- It is recommended the request to vary the existing lease and approve a new lease is supported.

**RECOMMENDATION**

**CCS297: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council APPROVE a variation of existing lease and grant a new lease to Regional Development Australia, Great Southern WA over Reserve 42401, subject to:**

- a) Lease variation to remove the existing licence provisions for the ground floor of the Co-operative Society building.**
- b) New lease area being the ground floor of the Co-op building and the surrounding area of Reserve 42401 comprising carpark and grounds, being approximately 725m<sup>2</sup> to be determined by survey.**
- c) Lease permitted use being to establish and operate a Regional University Centre.**
- d) Lease rent being peppercorn \$10 plus GST per annum.**
- e) Lease commencement date being as soon as practicable, for a term to run concurrent with existing RDA lease, expiring 22 April 2024.**
- f) Lease being conditional on a Development Application approved for use of the site.**
- g) Lease being conditional on Minister for Lands consent pursuant to Section 18 of the *Lands Administration Act 1997*.**
- h) All costs associated with the ongoing operations of the lease property being payable by the tenant.**
- i) All costs associated with the preparation, execution and completion of the lease documentation being payable by the tenant.**
- j) Lease being consistent with Council Policy – Property Management (Leases and Licences).**

**CCS297: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR STOCKS  
SECONDED: COUNCILLOR HAMMOND**

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

**CARRIED 10-0**

**CCS297: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council APPROVE a variation of existing lease and grant a new lease to Regional Development Australia, Great Southern WA over Reserve 42401, subject to:

- a) Lease variation to remove the existing licence provisions for the ground floor of the Co-operative Society building.
- b) New lease area being the ground floor of the Co-op building and the surrounding area of Reserve 42401 comprising carpark and grounds, being approximately 725m<sup>2</sup> to be determined by survey.
- c) Lease permitted use being to establish and operate a Regional University Centre.
- d) Lease rent being peppercorn \$10 plus GST per annum.
- e) Lease commencement date being as soon as practicable, for a term to run concurrent with existing RDA lease, expiring 22 April 2024.
- f) Lease being conditional on a Development Application approved for use of the site.
- g) Lease being conditional on Minister for Lands consent pursuant to Section 18 of the *Lands Administration Act 1997*.
- h) All costs associated with the ongoing operations of the lease property being payable by the tenant.
- i) All costs associated with the preparation, execution and completion of the lease documentation being payable by the tenant.
- j) Lease being consistent with Council Policy – Property Management (Leases and Licences).

**BACKGROUND**

- 2. The Co-op building is located at 44 Frederick Street, Albany on Reserve 42401 and is contained on various heritage lists.
- 3. Following significant renovation works to the building in 2016 to restore its usability and an expression of interest process to secure a tenant, Council at its meeting in November 2017 approved a new lease and licence to RDA.
- 4. RDA lease the first floor for office space and hold a licence over the ground floor to manage community access to the space. At times when this space is not required, RDA are able to use it for their own purposes. Current rent is \$15,795.25 plus GST pa.
- 5. RDA sublease a portion of the first office space to Amazing South Coast Tourism Inc for a gross annual rental of \$8,950 plus GST, paid to RDA by the City as part of the Destination Marketing Organisation funding agreement due to expire April 2021.
- 6. RDA formed a working group comprising community representatives from UWA, TAFE, GSDC and City of Albany to develop options to attract university study options in the region.
- 7. A funding submission was prepared to establish a RUC in Albany to provide regional students access to higher education facilities without having to leave their community.
- 8. RDA has been successful in securing Commonwealth funding and has approached the City to consider leasing the ground floor of the Co-op building for the purpose of a RUC.
- 9. The City has previously provided in principal support to the project and committed to any lease arrangement for a RUC being for a peppercorn rent, subject to Council approval.

## DISCUSSION

10. RUC's provide workspaces for students studying online, computing facilities, videoconferencing and high speed internet access. Students will also have access to administrative, academic and student support services.
11. RDA considered a number of premises in the Albany CBD for the establishment of the RUC. However, many of the buildings were either unavailable or exceeded the available rental/outgoings budget.
12. Under the RUC proposal the ground floor area will be transformed into a space that will provide students with a specifically designed space for them to undertake their chosen University education.
13. RDA acknowledge the heritage status of the Co-op building and envisage proposed works will have minimal impact. The proposed works may require development application with referral to Heritage Council.

## DISCUSSION

14. City Officers have been in discussion with RDA regarding lease terms. Parties have agreed in-principle to the following summarised terms and conditions subject to all approvals including Development Application, Council and Minister for Lands.

ITEM	DETAILS
Tenant	Regional Development Australia, Great Southern WA Inc
Land Description	Lot 1411 on Diagram 26101 the subject of Certificate of Title Volume LR3123 Folio 712 and being Crown Reserve 42401 44 Frederick Street, Albany
Area	Approximately 725m <sup>2</sup> subject to survey
Land Ownership	Crown (City of Albany under Management Order)
Infrastructure Ownership	City
Permitted Use	To establish and operate a Regional University Centre
Term	To run concurrent with RDA existing lease – expiry 22 April 2024
	RDA may end the term by giving 30 days written notice should Federal Government funding cease entirely
Rent	\$10.00 plus GST per annum
Outgoings & Utilities	Tenant responsibility
Insurance	Public Liability Policy for a minimum of \$20 million
Indemnity	Indemnify the City and Minister for all claims resulting from any damage, loss, death or injury in connection with the Council Property, unless such claims arise out of City's negligence
Maintenance	Tenant responsible for own maintenance including carpark, gardens and grounds within Reserve 42401
Fit out	Tenant responsibility and subject to relevant approvals
	City will install a door to screen the toilet area and blinds (x3) in the ground floor, at City cost
Costs	All costs associated with the development and implementation of any new lease document will be at the tenant cost
Special Conditions	<ul style="list-style-type: none"> <li>• Tenant acknowledges the building may be affected by damp</li> <li>• Tenant occupies the building at own risk and indemnifies the City and Minister for Lands against any loss resulting from the tenant's occupation of the site</li> <li>• Tenant will perform its maintenance and cleaning obligations having regard to the presence of damp</li> <li>• City will continue to manage building damp issues, at City cost</li> </ul>
	Lease is conditional on a Development Application being approved and Minister for Lands consent



## GOVERNMENT & PUBLIC CONSULTATION

15. The Department of Planning, Lands and Heritage will be consulted as it is a requirement of Section 18 of the Land Administration Act 1997 that the Ministers consent is obtained.
16. Section 3.58 of the Local Government Act 1995 defines the requirements for the disposal of property, including leased/licensed land and buildings.
17. Regulation 30(2)(b) of the Local Government (Functions & general) Regulations 1996 describes the disposition as exempt when the land is disposed to an organisation or body whose objects are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature.
18. The lease to RDA is exempt from the public advertising provision of Section 3.57 of the *Local Government Act 1995* as it is considered a not-for-profit government initiative providing an educational centre.

## STATUTORY IMPLICATIONS

19. Section 18 of the Land Administration Act 1997 states that a person shall not assign, sell, transfer or otherwise deal with interests on Crown land, create, or grant an interest in Crown land without the prior approval in writing of the Minister for Planning, Lands and Heritage.
20. As this is Crown land, under Management Order held by the City, the Minister's consent will be sought.

## POLICY IMPLICATIONS

21. The Property Management (Leases and Licences) Policy aims to support the equitable access, and the efficient and effective management of City owned and managed properties in line with statutory procedures.
22. It is recommending that Council consider a peppercorn rent of \$10 plus GST per annum to support tertiary education growth within the region.

## RISK IDENTIFICATION & MITIGATION

23. 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> variation of lease not approved – lease of ground floor not supported	Unlikely	Minor	Low	Key terms have been agreed In-principle. Seek to negotiate terms to Council satisfaction
<b>Reputation:</b> new lease not approved – perceived lack of support for tertiary education in region	Unlikely	Minor	Low	Seek to negotiate terms to Council satisfaction
<b>Opportunity:</b> To provide support for local tertiary students including expanding the range of tertiary education options available				
<b>Opportunity:</b> Demonstrate the City's commitment to deliver education programs that support families and encourage a culture of lifelong learning				
<b>Opportunity:</b> Promote Albany and the surrounding region as a tertiary hub				

## FINANCIAL IMPLICATIONS

24. All costs associated with the development and finalisation of the lease documentation will be met by the tenant.
25. The City will be responsible for installing a door to screen the toilet area and providing blinds for windows on the ground floor at a cost of approximately \$3,000. This cost can be met through the existing maintenance budget line item.

## LEGAL IMPLICATIONS

26. The Deed will be prepared by City's lawyers with enforceable terms and conditions, at the tenant cost.

## ENVIRONMENTAL CONSIDERATIONS

27. There are no environmental implications.

## ALTERNATE OPTIONS

28. Council may:
- Approve the lease variation and new lease request; or
  - Decline the requests.
29. Should Council decline the requests, the tenant may need to reconsider other premises. However, it is understood this may be challenging as other premises have previously been considered but were either unavailable or exceeded the available rental/outgoings budget.

## CONCLUSION

30. RDA have been successful in gaining Federal Government funding to establish a Regional University Centre in Albany.
31. The ground floor of the City's Co-op building has been identified as the preferred location and is currently under licence to RDA.
32. The preferred approach is to formalise the use of the Regional University Centre under lease agreement which includes the Co-op building ground floor, grounds and parking within Reserve 42401.
33. The proposed lease will be conditional on development approval for use of the site and Minister for Lands consent.
34. It is recommended that the request to vary the existing lease and approve a new lease to RDA is supported.

<b>Consulted References</b>	:	<ul style="list-style-type: none"><li>Council Policy – Property Management (Leases and Licences)</li><li><i>Local Government Act 1995</i></li><li><i>Land Administration Act 1997</i></li></ul>
<b>File Number (Name of Ward)</b>	:	PRO416, A137623 (Frederickstown Ward)
<b>Previous Reference</b>	:	OCM 28/11/2017 Item CCS004

## CCS298: CLIMATE CHANGE ACTION DECLARATION

<b>Proponent / Owner</b>	: City of Albany.
<b>Attachments</b>	: City of Albany Climate Change Action Declaration
<b>Report Prepared By</b>	: Environmental Sustainability Officer (M Holt) Acting Manager Community Development and Engagement (R Param)
<b>Responsible Officers:</b>	: Acting Executive Director Community Services (N Watson)

### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** Leadership.
  - **Objective:** To establish and maintain sound business and governance structures.
  - **Community Priority:** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflects the level of associated risk and is adequately explained to our community.
  - **Theme:** Clean, Green and Sustainable.
  - **Objective:** To protect and enhance our natural and built environment in a changing climate.
  - **Community Priority:** Deliver effective practices that reduce risk to property, infrastructure and the natural environment and improve community awareness and resilience.
  - **Objective:** To identify and deliver improvements in sustainability within the City and wider community.
  - **Community Priority:** Integrate and promote effective sustainability through resource conservation, management and education to continuously improve environmental outcomes.
  - **Community Priority:** Deliver a sustainable and progressive approach to waste management including collaboration with neighbouring local governments.

### In Brief:

- Climate change may have an impact on the City's environmental assets, and may also have financial and asset management implications.
- The City of Albany Climate Change Action Declaration has been developed in partnership with the Youth Advisory Council and Elected Members.
- It is recommended that the proposed City of Albany Climate Change Action Declaration is endorsed.

### RECOMMENDATION

#### CCS298: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

**THAT the City of Albany Climate Change Action Declaration be ADOPTED.**

CCS298: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GOODE

SECONDED: COUNCILLOR SLEEMAN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS298: RESPONSIBLE OFFICER RECOMMENDATION

THAT the City of Albany Climate Change Action Declaration be ENDORSED.

**BACKGROUND**

2. Local governments are playing a key role in leading localised action on climate change due to its impacts on all aspects of City operations and the community.
3. The City of Albany has been proactive in sustainability and climate change initiatives. The City has developed and implemented their Environmental Policy (Climate Change) (2017) and Carbon Footprint Reduction Strategy (2014) which aim to ensure that appropriate responses are undertaken to mitigate potential climate change impacts.
4. The Albany Youth Advisory Council (YAC) is a working group of youth representatives advocating for young people.
5. Climate Change action is supported by young people and the community with a well-attended youth-led Climate Strike on the 20th September 2019. A Declaration on Climate Change submission was submitted and received by Council at the October 2019 OCM.
6. Following the submission, Council committed to work with the Youth Advisory Council to develop a City of Albany Climate Change Action Declaration which would complement the City's existing environmental and sustainability policies and outcomes.

**DISCUSSION**

7. Under the United Nations Framework Convention on Climate Change, Australia is a signatory to the Paris Agreement which aims to limit global temperature rises to well below two (2) degrees Celsius, and to pursue efforts to limit even further to 1.5 degrees Celsius.
8. The Government of Western has recently released its greenhouse gas emissions policy for major projects assessed by the Environmental Protection Authority (EPA), as the state government commits to working with all sectors of the WA economy to achieve net zero greenhouse gas emissions by 2050.
9. In light of the absence of State and Federal policy and legislation regarding potential climate change, Western Australia Local Government Association (WALGA) developed a WALGA Climate Change Policy statement (2018) that states:

***Local Government acknowledges:***

- i. The science is clear: climate change is occurring and greenhouse gas emissions from human activities are the dominate cause*
- ii. Climate change threatens human societies and the earth's ecosystems.*
- iii. Urgent action is required to reduce emissions, and to adapt to the impacts from climate change that are now unavoidable*
- iv. A failure to adequately address this climate change emergency places an unacceptable burden on future generations.*

***Local Government is committed to addressing climate change***

**Local Government is calling for:**

- i. Strong climate action, leadership and coordination at all levels of government*
  - ii. Effective and adequate funded Commonwealth and State Government climate change policies and programs*
10. Presently, 40 Western Australian local governments have endorsed either a climate declaration or a climate emergency declaration.
  11. There is strong community support for the City to adopt a climate declaration. A petition containing nearly 1,000 signatures was presented to Council at the October 2019 Ordinary Council Meeting requesting the City adopt the WALGA declaration.
  12. In May 2020 members of the City's Youth Advisory Council (YAC) met with Elected Members to discuss their priorities on behalf of Albany's youth. One of the priorities was stronger, demonstrable action on climate change, which led to the Elected Members, through the Mayor, inviting the group to collaborate on drafting a Climate Declaration/Statement for the City of Albany.
  13. Two joint workshops were held on 20 August and 15 September 2020 to draft a declaration, with a commitment made that the final agreed document would be presented to the October 2020 Ordinary Council Meeting for Council consideration.
  14. The City of Albany Climate Action Declaration acknowledges that climate change is occurring and requires immediate and urgent action. The Declaration acknowledges the City's support for climate change and sustainability initiatives, and includes a number of actions in an effort to reduce carbon emissions and increase renewable energy technology.
  15. The Elected Members and YAC also agreed to develop a communications plan to support the Declaration.

**GOVERNMENT & PUBLIC CONSULTATION**

16. Four young people delivered speeches to Council at its October 2019 Ordinary Council Meeting in favour of the City adopting the WALGA climate declaration.
17. At the same Ordinary Council Meeting a petition was submitted requesting the City adopt the WALGA climate declaration. This petition contained 966 signatures of Albany residents.
18. Workshops with YAC members to develop a climate declaration have been held as follows:

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Inform and Consult	Workshop – Youth Advisory Council	15 May 2020	8 YAC members	N/A
Inform and Consult	Workshop – Youth Advisory Council, Climate Action Committee members, and Elected Members	20 August 2020	5 young people	N/A
Inform and consult	Workshop – Youth Advisory Council, Climate Action Committee members, and Elected Members	15 September 2020	6 young people	N/A

**STATUTORY IMPLICATIONS**

19. Not Applicable.

**POLICY IMPLICATIONS**

20. This item relates to the City of Albany Environmental Policy (Climate Change) (2017).

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Business Operation, Reputation &amp; Financial.</b> <i>Should the City of Albany Climate Change Action Declaration not be endorsed, the City may be perceived as not taking the climate concerns of youth and the community seriously</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Officers will undertake further work with Council and YAC to develop an alternative statement that is supported by stakeholders.</i>
<b>Environment:</b> <i>If monitoring of the City's greenhouse gas emissions is not undertaken, it will be difficult to assess and monitor any impacts that may have on our environment.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Implement greenhouse gas emissions reporting platform to benchmark corporate greenhouse gas emissions.</i>
<b>Community:</b> <i>Delaying the adoption of, or not adopting the Climate Change Action Declaration will not fulfil the City's commitment to environmental sustainability in accordance with the Community Strategic Plan 2030.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Endorse the City of Albany Climate Change Action Declaration</i>
<b>Financial:</b> <i>Actioning the commitments made in the Climate Change Action Declaration may require expenditure not currently budgeted for.</i>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<i>Seek external grant funding to support activity delivery Seek Council approval for additional budget requirements as necessary.</i>
<b>Opportunity:</b> <i>Demonstrate the City's commitment to climate change action, its leadership on environmental sustainability issues and an ongoing commitment to engage with the Youth Advisory Council.</i>				

## FINANCIAL IMPLICATIONS

22. Any actions that result from the commitments in the Climate Declaration which incur a direct cost to the City will be undertaken within existing budget and/or external grant funding sought, or prioritised through future budgets.
23. Any initiatives pursued by the City in response to the Declaration will support activity undertaken as part of the Carbon Footprint Reduction Strategy.
24. The Declaration will be reviewed following each Local Government Ordinary Election which will allow officers to assess any financial implications and provide a report to Council accordingly.

## LEGAL IMPLICATIONS

25. Not applicable.

## **ENVIRONMENTAL CONSIDERATIONS**

26. The Declaration relates to, and will support activity delivered through the Carbon Footprint Reduction Strategy (2014) and City of Albany Environmental Policy – Climate Change (2017)

## **ALTERNATE OPTIONS**

27. Continue business as usual through the review and implementation of the City of Albany Environmental Policy (Climate Change) and Carbon Footprint Reduction Strategy. This option is not recommended given the successful collaboration with Albany youth to develop the Climate Change Action Declaration.

## **CONCLUSION**

28. The City has a strong track record of achievement on environmental sustainability and emissions reduction efforts. Adopting a climate declaration consolidates these efforts, and demonstrates Council's ongoing leadership on the issue of carbon abatement.
29. It is recommended that Council adopt the City of Albany Climate Change Action Declaration.

<b>Consulted References</b>	:	City of Albany Environmental Policy (Climate Change) (2017): Carbon Footprint Reduction Strategy (2014):
<b>File Number (Name of Ward)</b>	:	All wards
<b>Previous Reference</b>	:	Petitioned Submitted OCM 29/10/2019 Resolution CCS028 - OCM 23/05/2017

**CCS299: SMALL BUSINESS CHARTER**

<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: Small Business Charter information brochure ACCI Discussion Paper – excerpt – Attachment 3 of document - 10 March 2020
<b>Report Prepared By</b>	: Executive Director Corporate & Commercial Services (D Olde)
<b>Responsible Officers:</b>	: Executive Director Corporate & Commercial Services (D Olde)

**STRATEGIC IMPLICATIONS**

This item relates to the following elements of the City of Albany Community Strategic Plan and Corporate Business Plan informing plans or strategies:

- **Theme:** Smart, Prosperous and Growing
- **Objective:** To strengthen and grow our region's economic growth.
- **Community Priority:** Work with business and other stakeholders to attract investment; diversify the economy; create jobs and support small business growth.

**In Brief:**

- The Small Business Development Corporation (SBDC) has developed the Small Business Friendly Local Governments initiative to recognise local government authorities in Western Australia that are committed to actively supporting small businesses in their local area.
- The City is encouraged to sign the Small Business Friendly Local Governments Charter to show commitment to work with, and support, small business.

**RECOMMENDATION**

**CCS299: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council ENDORSE the Small Business Charter with the following principles:**

- Promote the Buy Local Policy for the City's procurement of goods and services;**
- Prompt payment terms for invoices from small business suppliers within 30 days;**
- Promote a timely and cost effective process to manage any disputes arising between the City and small business clients through the Customer Service Charter;**
- Promote and increase online application processes and payments;**
- Seek to activate places across the community with events and activities; and**
- Collaborate with neighbouring local governments on economic development within the City and region.**

**CCS299: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR THOMSON  
SECONDED: COUNCILLOR STEPHENS**

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

**CARRIED 10-0**



**CCS299: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council ENDORSE the Small Business Charter with the following principles:

- a. Promote the Buy Local Policy for the City's procurement of goods and services;
- b. Prompt payment terms for invoices from small business suppliers within 30 days;
- c. Promote a timely and cost effective process to manage any disputes arising between the City and small business clients through the Customer Service Charter;
- d. Promote and increase online application processes and payments;
- e. Seek to activate places across the community with events and activities; and
- f. Collaborate with neighbouring local governments on economic development within the City and region.

**BACKGROUND**

1. The Albany Chamber of Commerce & Industry (ACCI) met with Council on the 10th March 2020, post the Corporate & Community Services Committee meeting.
2. The ACCI tabled a discussion paper (attached) with a number of topics, one of which was the Council agree for the City of Albany to join other Local Government in becoming a Small Business Friendly Government.

**DISCUSSION**

3. The Small Business Development Corporation has developed the Small Business Friendly Local Government initiative to recognise local governments in WA that are committed to support small business.
4. The City has a number of policy and programs in place.
  - a) The City has had a Buy Local Policy for a number of years that gives the maximum price preference to local suppliers as permitted under the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*.
  - b) The City administration endeavours to pay all authorised invoices within 30 days, and has done so for a number of years.
  - c) At the Council meeting held 23rd July 2019, Council adopted the Customer Service Charter, from which a number of operational documents have been progressed. This includes a Complaints Management Policy, guidelines for Managing Challenging Behaviours, and a Customer Service Handbook.
  - d) During the recent COVID-19 pandemic response, a number of processes have been transitioned to online platforms. In addition, for a number of years, the City has moved many processes and payment options online. The City will continue to look at improvements in this area.
  - e) Over the past 12-18 months the City and ACCI have engaged a number of times to progress the 'Town Teams' concept. In addition, the City runs an annual events program for many different size events. The City will continue to seek to improve this program as opportunities arise.
  - f) The City is a member of the South Coast Alliance Inc. Members of this group are the Shires of Plantagenet, Denmark and Jerramungup, as well as the City of Albany. One key aim of this group is: 'To promote the sustainable growth of the lower Great Southern sub-region.'
5. The Charter seeks to bring these various elements together into a single document.

## GOVERNMENT & PUBLIC CONSULTATION

6. The ACCI have advocated for the adoption of a Small Business Friendly Charter for the past 6 months.
7. The Buy Local Policy is a required policy, and was adopted by Council on 28<sup>th</sup> June 2016, which was a revision of the original policy adopted 19<sup>th</sup> February 2013. No public consultation was required, or undertaken. The policy is largely driven by requirements under the *Local Government Act 1995*, and associated regulations.
8. Payment terms of 30 days, and improved online payment and process improvement are operational matters that are periodically reviewed when new or improved online options become available, process improvement, and audit recommendations. No public consultation is required.
9. Prior to the adoption of the Customer Service Charter, a number of public working group meetings had been undertaken. Upon adoption of the Customer Service Charter, it was put out to public comment in July 2019, for the period 1 – 18 August, with no comments lodged.
10. Depending on the size and scale of the event, different levels of community consultation is undertaken. It should be noted that the City does not always directly manage this consultation process if the event is managed by an external party, either community or commercial entity.

## STATUTORY IMPLICATIONS

11. Endorsing and adopting the charter is a voluntary process and has not direct statutory implications. Elements of the charter may have individual statutory implications. For example, the Buy Local Policy is subject to various sections of the *Local Government Act 1995*, which are dealt with within the policy itself. The City will be required to inform the SBDC of progress and achievement of these principles, and any changes to these.

## POLICY IMPLICATIONS

12. The proposed principles are all current existing policy or procedures. If additional principles are adopted, each would need to be assessed on its own merits as to policy implications, The Charter itself has no policy implications.

## 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>Reputational Risk:</b> <i>The Small Business Charter raises community expectations and is not delivered as per the Charter principles.</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>City officers continue to implement the policies in place to support small business. Communicate and educate small business of the benefits of the City's policy positions.</i>
<b>Opportunity:</b> <i>To increase business awareness and perception of various principles the City has adopted under the Charter to assist in supporting sustainable and competitive local small businesses.</i>				

## FINANCIAL IMPLICATIONS

14. The proposed principles are all current existing policy or procedures, and therefore no increase in financial resources is expected. If additional principles are adopted, each would need to be assessed on its own merits as to financial implications.

## **LEGAL IMPLICATIONS**

15. No direct legal implication for the City with the adoption of the Charter. The various principles may have individual legal implications, which are dealt with under each policy itself.

## **ENVIRONMENTAL CONSIDERATIONS**

16. Nil.

## **ALTERNATE OPTIONS**

17. Council has the following options in relation to this matter:
- a) Council may decide to not endorse the Charter, and let each policy and procedure continue standalone;
  - b) Council may add, delete or amend the principles included in the Charter.

## **CONCLUSION**

18. No Small Business Charter currently exists for the City of Albany.
19. Individual principals of the Charter have been in place for varying lengths of time.
20. The Charter seeks to promote these various principles to the small business community.

<b>Consulted References</b>	:	<i>CCS166: Customer Service Charter – OCM 23 July 2019</i> <i>CSF247: Council Policy – Buy Local Policy (Regional Price Preference) – OCM 28 June 2016</i>
<b>File Number (Name of Ward)</b>	:	All Wards
<b>Previous Reference</b>	:	Nil.

**CCS300: FREEDOM OF ENTRY & KEY TO THE CITY POLICY**

<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: Freedom of Entry & Key to the City Policy
<b>Report Prepared By</b>	: Event Coordinator (S Klose)
<b>Responsible Officers:</b>	: Acting Executive Director Community Services (N Watson)

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Community Strategic Plan or Corporate Business Plan informing plans or strategies:

**Theme:** Smart, Prosperous & Growing.

**Objective:**

- o Promote Albany and the surrounding region as an ideal location to hold conferences and training events.
- o Encourage, support and deliver significant events that promote our region and have a positive economic and social benefit.

**Community Priority:** Our City regularly hosts significant events and activities which attract positive feedback.

**In Brief:**

- Formally endorse the Freedom of Entry and Key to the City Policy.

**RECOMMENDATION**

**CCS300: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the City of Albany Freedom of Entry and Key to the City Policy be ADOPTED.**

CCS300: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR THOMSON

SECONDED: COUNCILLOR BENSON-LIDHOLM

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS300: RESPONSIBLE OFFICER RECOMMENDATION

THAT the City of Albany Freedom of Entry and Key to the City Policy be ADOPTED.

**BACKGROUND**

2. The City of Albany has granted the following military units the right of Freedom of Entry:
  - HMAS Stuart (granted 1985)
  - 11<sup>th</sup>/28<sup>th</sup> Battalion of the Royal Western Australian Regiment (granted 1987, renewed 2001)
  - HMAS Anzac (granted 1996, renewed 2005)
  - HMAS Albany (granted 2008)
  - TS Vancouver Navy Cadets (granted 1979, renewed 2005)
  - The Royal Australian Air Force No5 Flying Training School (705 Squadron) (granted 1980, renewed 2000)
  - The Royal Australian Air Force No2 Flying Training School (granted 2003)

3. One non-serving contingent, the 17 Construction Squadron Workshop Vietnam Association (granted 2019) has been granted the Key to the City.
4. The City of Albany currently has no Policy guiding officers on Freedom of Entry requests, Key to the City requests or details on the process and protocols befitting the Exercising of the Right of Freedom of Entry.

## DISCUSSION

5. Albany has a rich military history and with this has come an increasing interest in military units requesting Freedom of Entry to the City of Albany and exercising the right to march freely through our main street.
6. Albany has granted 7 military units Freedom of Entry and one non-serving contingent has been granted the Key to the City.
7. In November 2021, the RAAF No 2 Flight Air Training Corp and RAAF No 5 Flight Air Training Corp wish to exercise their right to the Freedom of Entry to the City. This adds to the 100-year anniversary of the Royal Australian Air Force celebrations in March 2021, where the Royal Australian Air Force will hold a flyover as part of the celebrations.

The Freedom of Entry and Key to the City Policy will formalise the process of assisting with approvals, advice and local information. This policy will also formalise the City's administrative and event support and assessment criteria for additional in-kind or financial support requests.

## GOVERNMENT & PUBLIC CONSULTATION

8. City officers have sought advice from local Returned Services League representatives and current serving military units in developing this policy. Information has been gathered from the Australian Defence Force Ceremonial and Protocol Manual, as well as existing City policies pertaining to Civic Affiliations (2019), and Civic Receptions, Ceremonies and Use of Council and Civic Rooms (2019).

## STATUTORY IMPLICATIONS

9. Nil.

## POLICY IMPLICATIONS

10. Nil.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Operational.</b> <b>Risk:</b> No policy position is adopted to guide the process of implementing requests for Freedom of Entry or Keys to the City	Possible	Moderate	Medium	. Adopt the Freedom of Entry and Key to the City Policy.
<b>Opportunity:</b> To formalise the process of granting Freedom of Entry or Key to the City requests.				

**FINANCIAL IMPLICATIONS**

12. Budget allocation already exists for civic functions.
13. Council may wish to consider a future, specific budget allocation to support Freedom of Entry events, logistics and support.

**LEGAL IMPLICATIONS**

14. Nil.

**ENVIRONMENTAL CONSIDERATIONS**

15. Nil.

**ALTERNATE OPTIONS**

16. Council may choose to not endorse the Freedom of Entry and Key to the City Policy and officers will continue to manage requests and approvals on an ad-hoc basis.

**CONCLUSION**

17. The Freedom of Entry and Key to the City Policy will formalise the process to assist with approvals, advice and local information. It also formalises the City's administrative and event support and assessment criteria for additional in-kind or financial support requests, so expectations can be managed.

Consulted References	:	<ul style="list-style-type: none"><li>• Australian Defence Force Ceremonial and Protocol Manual</li><li>• Civic Affiliations Policy (01/07/2019)</li><li>• Civic Receptions, Ceremonies and use of Council and Civic Rooms Policy &amp; Guideline (01/07/2019)</li></ul>
File Number (Name of Ward)	:	All wards
Previous Reference	:	N/A

## **DIS219: ADOPTION OF THE CITY OF ALBANY LOCAL HERITAGE SURVEY AND THE HERITAGE LIST**

<b>Land Description</b>	: Multiple properties throughout the City of Albany Municipal Area
<b>Proponent / Owner</b>	: Multiple owners
<b>Business Entity Name</b>	: N/A
<b>Attachments</b>	: Schedule of Submissions Local Heritage Survey List Scheme Heritage List Community Update (April 2020)
<b>Report Prepared By</b>	: Senior Planning and Development Compliance Officer (T Wenbourne)
<b>Responsible Officers:</b>	: Executive Director Infrastructure and Environment (P Camins)

### **STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed survey and list, Council is obliged to draw conclusions from its adopted *Albany Local Planning Strategy 2019* and *Community Strategic Plan – Albany 2030*.
3. The Albany Community Strategic Plan – Albany 2030 recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).

#### **In Brief:**

- The Local Heritage Survey (previously referred to as the Municipal Heritage Inventory) was adopted in April 2018 following a review that commenced in 2010. Further modification and update of this has occurred as part of preparation of the Heritage List.
- The City has followed the City of Albany Heritage List procedure in selecting the places of heritage value recommended to be included in the Heritage List.
- Both documents have now been advertised. The majority of submissions received supported the heritage listing of their property or included additional/correcting information.
- The updated Local Heritage Survey and proposed Heritage List were referred to Council in July 2020 under report item DIS219. A decision was deferred to allow a further review of 2 properties (18b Finlay Street & 1207 Nanarup Road) taking into consideration their current condition.
- The review of these properties has now been undertaken with the assessment and recommendation reported below.
- It is recommended that Council adopt both the Local Heritage Survey and Heritage List.

### **COVID-19 IMPACT**

- No identified implications.

**RECOMMENDATION**

**DIS219: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council, resolves to:**

- 1. ADOPT the City of Albany Local Heritage Survey subject to modifications as set out in the Schedule of Submissions.**
- 2. ADOPT the Heritage List subject to modifications as set out in the Schedule of Submissions, specifically including the following:**
  - a. EXCLUDE 18b Finlay Street, Albany.**
  - b. INCLUDE Springmount, 1207 Nanarup Road, Kalgan.**
  - c. KEEP 52 Frederick Street, Albany.**
  - d. INCLUDE 86 Aberdeen Street, Albany.**
  - e. INCLUDE 11 Parade Street, Albany.**
- 3. INFORM the Heritage Council (DPLH) of the City's decision to adopt the Local Heritage Survey and Heritage List.**
- 4. AUTHORISE the Chief Executive Officer to WAIVE the fees for Development Applications, where these applications are solely required because a property is on the Heritage List.**

**DIS219: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR THOMSON**

**SECONDED: COUNCILLOR BENSON-LIDHOLM**

**THAT the Responsible Officer Recommendation be ADOPTED**

**CARRIED 8-1**

**Record of Vote**

Against the Motion: Councillor Stocks

**DIS219: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council, resolves to:**

- 1. ADOPT the City of Albany Local Heritage Survey subject to modifications as set out in the Schedule of Submissions.**
- 2. ADOPT the Heritage List subject to modifications as set out in the Schedule of Submissions, specifically including the following:**
  - a. EXCLUDE 18b Finlay Street, Albany.**
  - b. INCLUDE Springmount, 1207 Nanarup Road, Kalgan.**
  - c. KEEP 52 Frederick Street, Albany.**
  - d. INCLUDE 86 Aberdeen Street, Albany.**
  - e. INCLUDE 11 Parade Street, Albany.**
- 3. INFORM the Heritage Council (DPLH) of the City's decision to adopt the Local Heritage Survey and Heritage List.**
- 4. AUTHORISE the Chief Executive Officer to WAIVE the fees for Development Applications, where these applications are solely required because a property is on the Heritage List.**



**BACKGROUND**

4. The City of Albany Municipal Heritage Inventory (MHI) was last reviewed in December 2000 and represented a combination of the 1994 Heritage Inventories of the Town and Shire following the 1998 amalgamation. A review thereof commenced in 2010.
5. At the OCM of June 2017, Council endorsed the Heritage List procedure, which guides the selection of places for inclusion on the Heritage List from the Heritage Survey review process. The Local Heritage Survey informs the preparation of the Heritage List.
6. Council adopted the current Local Heritage Survey at the April 2018 OCM.
7. Both the Local Heritage Survey and Heritage List were publicly advertised for a period of 4 weeks in March/April 2020. Twenty-four submissions were received of which the vast majority are in support of heritage listing of their places or provided additional/correcting information.

**DISCUSSION**

8. The Local Heritage Survey is prepared under the *Heritage Act 2018* and in accordance with the *Guidelines for Local Heritage Surveys* (July 2019) by the Heritage Council.
  - a. Local Heritage Surveys are compiled to 'tell the stories' of their districts – it provides an understanding of the history and development of the local government area, identifies the key themes and storylines that have shaped it and the places that reflect or encapsulate this. It is in essence a stock-take of a community's heritage places. Inclusion in the Local Heritage Survey is an acknowledgement of a place's heritage value.
  - b. Owners are free to develop their properties in accordance with the normal planning requirements which apply to all properties in the City.
  - c. There are 327 places on the Local Heritage Survey of which 54 are new places that have been added through the review process.
9. The deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* require that local governments establish and maintain a heritage list of places assessed as having cultural heritage significance.
10. The Local Heritage Survey is the first point of identification of heritage places and is used, amongst other functions, to inform the preparation of a heritage list. The threshold for inclusion in the Heritage List are based on the City's adopted procedure (OCM June 2017). The procedure allowed for consistency and transparency for the inclusion of places on the Heritage List.
  - a. The current Heritage List was inherited from Town Planning Scheme 1A (former Town of Albany Scheme). There is only one (1) place included from the former Shire area. The 'Schedule of Places of Heritage Value' under Town Planning Scheme 1A was recognised as a starting point for the required heritage list.
  - b. Of the 327 places on the Local Heritage Survey, 275 places have met the threshold for inclusion in the Heritage List as set out under the Heritage List Procedure. Inclusion in the Heritage List is based on an assessment of cultural heritage significance as follows:

Level of significance	Category	Description	Heritage List status
Exceptional significance	1	Essential to the heritage of the locality. Rare or outstanding example.	All placed included in the heritage list.
Considerable significance	2	Very important to the heritage of the locality. Show a high degree of integrity/authenticity.	All places included in the heritage list.
Some/moderate significance	3	Contributes to the heritage of the locality. Has some altered or modified elements, not necessarily detracting from the overall significance of the place.	Places may be included in the heritage list.
Little significance	4	Has elements or values worth noting for historical interest but otherwise makes little contribution.	Below the threshold for inclusion in the heritage list.

11. The Heritage survey and list are subject to statutory requirements for advertising, the process which was followed will be discussed further below.
12. It is considered that the implementation of the Heritage List and Survey will put in place a framework of cataloguing and protecting the heritage places within the City of Albany.
13. Inclusion on the Heritage List affords statutory protection to the place under the *Planning and Development (Local Planning Schemes) Regulations 2015*. This means it cannot simply be altered or demolished, but any change must be approved by the City through a development application.
14. The requirement for approval ensures that any proposed alteration or redevelopment is sympathetic to the heritage of the place. It also gives the City the opportunity to record and document anything of note about the place before it is altered or removed.
15. In recognition of the requirement to apply for development approval in circumstances where an unlisted property does not need approval, staff are recommending that development application fees be waived.
16. As well as providing statutory protection, Heritage Listing brings with it a duty and expectation to maintain a property. There have been examples where owners of heritage properties have attempted 'demolition through neglect'. There are elements of the legislation that deal with this and action that can be taken to require upkeep of a property.
17. Having said this however, the routine maintenance requirement is not much different to any other property in use by an owner. As an owner, you invest in maintenance to preserve the useability and value of the asset. However, where a property is not in regular use the ongoing maintenance requirement could be viewed as a burden, particularly if the property requires lots of regular maintenance. Again, this is not necessarily any different for a non-heritage listed property.
18. At the July Ordinary Council Meeting, Council deferred making a decision on the updated Heritage Survey and Heritage List to allow a review of the current condition of two (2) properties – 18b Finlay Street and Springmount, 1207 Nanarup Road.

**18b Finlay Street**

19. 18b Finlay Street was inspected on Monday 24 August 2020. It was noted that the small timber framed dwelling is in poor condition which appears to have been contributed to by onsite drainage conditions.
20. It is unlikely the drainage can be addressed with the current dwelling in situ, particularly as part of the wall is constructed directly on exposed rock on the side of Mount Clarence. In places the external walls are also retaining external ground levels. Much of the framing and other timber elements have deteriorated and are no longer plumb or level, in part due to weathering. Ceiling heights in the rear rooms do not meet head clearance requirements.
21. It is considered that the dwelling is structurally compromised by the prevailing onsite conditions and it would not be viable to undertake the substantial repairs necessary without addressing the underlying issues that would continue to impact those repairs.
22. In these circumstances it would be unreasonable to require this extensive maintenance that Heritage Listing would bring on the property owners.
23. This property has an interesting story behind it and is still owned by the family of the widow it was originally constructed for through community support. This story is not currently documented on the place record form. The owner has indicated support and a desire for this history to be recorded. This story adds to the charm of the property, but the structure is not essential to the telling of the story.

24. It is the considered view of City Staff that the Heritage Survey level of significance remain unchanged, but that this property should not be included in the Heritage List. The City, through its Heritage Advisor, should liaise with the current owner to further document the story and history of the property prior to its eventual demolition.

**Springmount, 1207 Nanarup Road**

25. The property Springmount at 1207 Nanarup Road was inspected on Wednesday 29 July 2020. This large and generously proportioned dwelling is showing some signs of deteriorating fabric, most notably the external timber stairs, balustrades and some of the verandah decking.
26. It is understood the stairs and balustrades were replaced during the 1991 renovation and an inappropriate or untreated timber may have been used resulting in the current issues. There was no obvious cause for the verandah decking boards being 'springy' and this was not explored further.
27. The stone fireplace foundations have differing extents of vertical cracking and some mortar deterioration. Remedial work to repair this could be undertaken by a competent stonemason.
28. Some of the verandah roof sheeting has been replaced, but without the supporting structure underneath, which has caused it to sag under its own weight. In addition, there is evidence of minor roof leaks inside the house, but the owner advises they have carried out repairs above these and stopped the leaks.
29. Other issues include the shower tiling requiring re-grouting, timber framing on the partial verandah enclosure has failed and caused the pane of glass to crack and some of the internal wall linings have become detached from the wall to become loose and rippled.
30. Whilst there are numerous issues identified, it is considered that the dwelling on a whole is structurally sound. Whilst it would not have the living comfort of a new build, it would not take much work to make this building liveable again.
31. If this dwelling were being regularly or permanently occupied many of these issues may have been identified and addressed earlier as part of routine maintenance before they got to their current extent.
32. The owner also offered conjecture that some of the references to use of the place as a holiday retreat or guesthouse may not be correct, although the layout of the rooms along the corridors would support this type of use. This may require further research, but does not alter the assessment or level of significance.
33. It is the considered view of City Staff that the Heritage Survey level of significance remain unchanged and the property should be included in the Heritage List.

**Other Objections**

34. The other objections to listing were minor in nature and were not part of the reason for Council deferring a decision on this item at the July OCM.
35. The owners of 52 Frederick Street raised an objection to the Heritage Listing (objection No.16) pending a structural assessment of a wall and sought a delay for this to occur. The City has not heard anything further with regard to the owner progressing the structural assessment.
36. This property was already included in the 2000 Inventory and is already on the Scheme Heritage List carried over from Town Planning Scheme 1A. It is recommended this property remain on the Heritage List.

37. The owners of 86 Aberdeen Street raised objection to the Heritage Listing (objection No.22) on perceived property value impact. The recommendation of staff is for all the suggested places on Aberdeen Street to be included on the Heritage List to guide future development and protect the heritage environment of Aberdeen Street.
38. The protection of a streetscape or heritage environment has been found to improve property values due to the perceived prestige this protection brings.
39. The owners of 11 Parade Street raised objection to the Heritage Listing (objection No.23) on spiritual grounds and family memories.
40. This property was already on the 2000 Inventory, but was not in the Scheme List carried over from Town Planning Scheme 1A. The property is a fine example of the period with a high level of authenticity and one of the earliest houses in this southern portion of Parade Street.
41. In addition, together with other buildings, it has a positive contribution on the streetscape and is recommended to be included on the Heritage List. Whilst the spiritual connect of the owner is acknowledged, the Heritage Listing will not interfere with or disrespect this personal connection.

#### GOVERNMENT & PUBLIC CONSULTATION

42. Under the *Heritage Act 2018*, local governments are required to prepare a Heritage Survey. Consultation requirements with landowners are set out under the *Guidelines for Local Heritage Surveys* released by the Heritage Council in July 2019.
43. The deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, require a local government to write to each owner with a description of the place and the reasons for the proposed entry and invite them to make a submission on the proposal. The City is also required to carry out any other consultation considered appropriate.
44. The Heritage Survey and Heritage List was on public advertising for a period of 4 weeks from 9 March to 3 April 2020. Public notices were placed in local newspapers and letters were sent to each landowner which included the relevant place record form and a detailed information sheet with frequently asked questions (Community Update April 2020 attached).
45. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Inform – Heritage Survey Consult – Heritage List	Mail Out Public Notice in Newspaper Interviews	9 March – 3 April 2020	Written submissions = 24 Interviews held = 14	Yes

46. The majority of submissions received supported the heritage listing of their property or included additional/correcting information.
47. Six submissions objected to heritage listing of their property and it is recommended that four remain on the Heritage List predominately due to their level of significance having met the threshold for inclusion (i.e. of considerable or exceptional heritage value) or because the place is located in a street where all places are heritage listed. This ensures that proposed alterations or redevelopment is in sympathy with the heritage streetscape.
48. Heritage Listing does not preclude substantial alterations or demolition of a place. The requirement that a development application be submitted allows the City to assess the proposal on its merits and where approved, condition that an archival record be prepared.

49. An archival record is made of a heritage place as a way of contributing to our understanding and appreciation of our heritage.
50. They record place details for the future such as:
  - the location;
  - historical drawings or photographs;
  - a history of the place;
  - current drawings and photos;
  - internal details such as layout, significant interior details; and
  - a bibliography.
51. The City does not promote the demolition of heritage places, but being Heritage Listed does not absolutely prevent demolition where it can be demonstrated there is no viable alternative or as part of an appropriate re-development proposal.

### **STATUTORY IMPLICATIONS**

52. Inclusion of a place on a Heritage List means that the City will receive applications for developments that would otherwise be exempt from the requirement for development approval under the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*. This includes applications for internal building works, single dwellings, ancillary buildings, and outbuildings and other external structures.
53. The inclusion of a place on the Heritage List gives the place recognition and protection under the City's Local Planning Scheme.
54. The City will give due regard to the heritage significance of the listed place when determining a related development application. Proposals that respect and retain the heritage values of the place are likely to be encouraged and may, where appropriate, be required.
55. Importantly, the inclusion of a place on a Heritage List does not limit the ability of an applicant to propose any works, nor does it limit the ability of the City to determine an application in the manner it considers most appropriate.
56. Heritage Listing brings with it a duty and expectation to maintain a property. There have been examples where owners of heritage properties have attempted 'demolition through neglect'. There are elements of the Planning and Development (Local Planning Schemes) Regulations 2015 that deal with this and the action that can be taken to require upkeep of a property.
57. Voting requirement for this item is **SIMPLE MAJORITY**

### **POLICY IMPLICATIONS**

58. There are no policy implications relating to the adoption of the Local Heritage Survey and Heritage List.
59. The Heritage List and Heritage Survey can be used to further inform the preparation of heritage precinct plans or place planning policies in respect to heritage matters.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Community, Organisational Operations and Reputation</b> <i>Inclusion on the Heritage Survey may attract objections from property owners or members of the public or other public authorities.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>The selection and assessment criteria is an established process. The City's assessment has been carried out in accordance with the State guidelines.</i>  <i>Continue dialogue with affected parties as required.</i>
<b>Opportunity:</b> <i>provide a framework for the long term protection of heritage places within the City of Albany.</i>				

## FINANCIAL IMPLICATIONS

61. Inclusion of a place on a Heritage List means that the City will receive applications for developments that would otherwise be exempt from the requirement for development approval under the deemed provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
62. Given the additional cost implication to owners of places on the Heritage List, and as an incentive to preserve the heritage thereof, it is recommended that Council waive the cost of application fees for proposals that would have otherwise not required a development application.

## LEGAL IMPLICATIONS

63. There are no legal implications directly relating to this item.

## ENVIRONMENTAL CONSIDERATIONS

64. Many places on the Heritage List are parks and gardens (for example, Alison Hartman Gardens, Balston Gardens and RSL Memorial Gardens), trees (for example, the Oak trees on Drew Street and the Peruvian Pepper Tree on Grey Street), lakes (for example, Lake Seppings) and places of Aboriginal significance (for example, Kalgan River fish traps and Scarred Tree at Oyster Harbour). Heritage Listing recognises the heritage significance of these places and adds an additional layer of statutory protection.

## ALTERNATE OPTIONS

65. Council may consider an alternate option in relation to the Officer Recommendations on this item, such as resolving:
- To adopt the Local Heritage Survey subject to additional modifications;
  - To adopt the Heritage List subject to additional modifications;
    - In relation to 18b Finlay Street, Council may resolve to include this property on the Heritage List;
    - In relation to Springmount, 1207 Nanarup Road, Council may resolve to exclude this property from the Heritage List;
    - In relation to 52 Frederick Street, Council may resolve to remove this property from the Heritage List;
    - In relation to 85 Aberdeen Street, Council may resolve to exclude this property from the Heritage List;
    - In relation to 11 Parade Street, Council may resolve to exclude this property from the Heritage List.

- c. To not waive application fees for development applications in relation to Heritage Listed places.

## CONCLUSION

66. The Local Heritage Survey recognises the heritage value of places that showcase the development of Albany since settlement. There are no statutory planning implications imposed.
67. The Local Heritage Survey is the basis from which the Heritage List is prepared. Places of exceptional and considerable heritage value are included on the Heritage List. Places of some/moderate heritage value may also be included where it is located on a street where all places are included on the Heritage List in order to guide future development and protect the heritage values within the streetscape. Places on the Heritage List are afforded statutory planning protection under the deemed provisions of the *Planning and Development (Local Planning Schemes Regulations 2015)*.
68. The Local Heritage Survey and Heritage List are important tools to honour Albany's heritage and protect places of heritage value for future generations to enjoy.
69. The Heritage Survey and Heritage List were publicly advertised for a period of 4 weeks from 9 March to 3 April 2020.
70. The majority of submissions received supported the heritage listing of their property or included additional/correcting information.
71. Council deferred its decision on this item at the July 2020 OCM for a review to be undertaken on two (2) properties based on their current condition. These properties have been inspected with the findings summarised in this report.
72. Staff recommend that 18b Finlay Street not be included in the Heritage List and it is recommended that Springmount, 1207 Nanarup Road still be included in the Heritage List.
73. It is recommended that Council adopt both the Local Heritage Survey and Heritage List as presented.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li>• <i>Heritage Act 2018</i></li> <li>• <i>Guidelines for Local Heritage Surveys</i> (July 2019)</li> <li>• <i>Planning and Development (Local Planning Schemes) Regulations 2015</i></li> </ul>
<b>File Number (Name of Ward)</b>	:	All
<b>Previous Reference</b>	:	DIS031 – June 2017 OCM DIS088 – April 2018 OCM DIS219 – July 2020 OCM



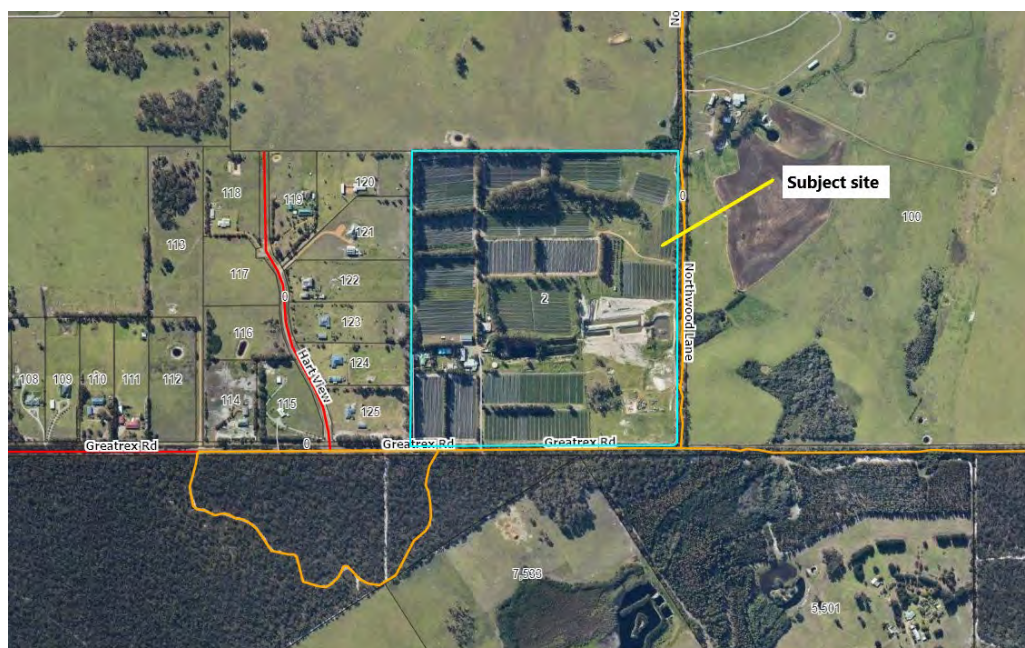
## DIS232: ANIMAL HUSBANDRY – INTENSIVE (EGG PRODUCTION) - 154 GREATREX ROAD, KING RIVER

<b>Land Description</b>	: 154 Greatrex Road, King River Albany WA 6330
<b>Proponent</b>	: Neil Malcom Handasyde
<b>Business Entity Name</b>	: Handasyde Strawberries Albany
<b>Attachments</b>	: 1. Copy of Application 2. Schedule of Submissions
<b>Report Prepared By</b>	: Planning Officer (D Ashboth)
<b>Responsible Officers:</b>	: Executive Director Infrastructure, Development and Environment (P Camins)

### STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. This item relates to the following elements of the City of Albany Strategic Community Plan 2030:  
**Theme:** Smart, Prosperous and Growing  
**Objective:** To strengthen and grow our region's economic base  
**Community Priority:** Work with business and other stakeholders to attract investment, diversify the economy, create jobs and support small business growth.  
**Theme:** A connected and safe built environment.  
**Objective:** To develop vibrant neighbourhoods which retain local character and heritage.  
**Community Priority:** Develop and implement a contemporary Local Planning Strategy that reflects our identity and supports economic growth.
3. The item relates to the following Strategic Objectives of the Albany Local Planning Strategy (ALPS):
  - a) Facilitate the sustainable development of the agricultural sector and maximise opportunities for diversification of agriculture and downstream processing.
  - b) Protect rural land and soil resources through appropriate planning mechanisms.

**Maps and Diagrams:** 154 Greatrex Road, King River





**In Brief:**

- The City of Albany has received a development application for free range egg production at 154 Greatrex Road, King River.
- The land use is considered a “D” discretionary use within the “General Agriculture” zone in accordance within the *City of Albany Local Planning Scheme No. 1*.
- A discretionary (‘D’) use means that the use is not permitted unless the local government has exercised its discretion by granting development approval.
- The proposal was advertised to the public via direct mail out. Through this process, a total of three (3) responses were received. The submissions are discussed in detail throughout the report.
- The application was also referred to the Department of Water and Environmental Regulation, the Department of Biodiversity Conservation and Attractions and the Department of Primary Industries and Regional Development who stated no objections to the proposal, subject to conditions.
- Staff recommend that Council approve the proposed development, subject to conditions.

**RECOMMENDATION**

**DIS232: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for Animal Husbandry – Intensive (Egg Production) at 154 Greatrex Road, King River:**

**Conditions:**

1. All development shall occur in accordance with the stamped, approved plans referenced P2200159, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.
3. 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 level of noise emanating from the premises shall not exceed that prescribed in the Environmental Protection Act 1986, and the Environmental Protection (Noise) Regulations 1997.  
*Advice: Dogs used as part of the operation shall be managed in such a way that their barking does not negatively impact the amenity of surrounding properties to the satisfaction of the City of Albany.*
5. The measures and actions identified in the Environmental Management Plan dated 7 April 2020 being implemented and maintained to the satisfaction of the City of Albany.
6. No poultry shall be permitted within 50m of the waterway running through the centre of the property as indicated in red on the stamped, approved plans.
7. The number of poultry on site shall not exceed 750 at any time unless otherwise agreed to in writing by the City of Albany.
8. Weeds shall be controlled and native vegetation allowed to regenerate in the 50m buffer around the water way indicated in red.

***Advice: The applicant is advised to contact the Oyster Harbour catchment group for advice on weed control and revegetation.***

- 9. No clearing or covering by overburden of any native vegetation is permitted without the prior approval from the Department of Water and Environmental Regulation.**
- 10. The grazing of the western paddocks abutting the properties to the east of Hart View shall be limited to 10 weeks of every year, unless otherwise agreed to in writing by the City of Albany.**

**DIS232: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR BENSON-LIDHOLM**

**SECONDED: COUNCILLOR SMITH**

THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for Animal Husbandry – Intensive (Egg Production) at 154 Greatrex Road, King River:

Conditions:

1. All development shall occur in accordance with the stamped, approved plans referenced P2200159, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.
3. 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 level of noise emanating from the premises shall not exceed that prescribed in the Environmental Protection Act 1986, and the Environmental Protection (Noise) Regulations 1997.

*Advice: Dogs used as part of the operation shall be managed in such a way that their barking does not negatively impact the amenity of surrounding properties to the satisfaction of the City of Albany.*

5. The measures and actions identified in the Environmental Management Plan dated 7 April 2020 being implemented and maintained to the satisfaction of the City of Albany.
6. No poultry shall be permitted within 50m of the waterway running through the centre of the property as indicated in red on the stamped, approved plans.
7. The number of poultry on site shall not exceed 750 at any time unless otherwise agreed to in writing by the City of Albany.
8. Weeds shall be controlled and native vegetation allowed to regenerate in the 50m buffer around the water way indicated in red.

*Advice: The applicant is advised to contact the Oyster Harbour catchment group for advice on weed control and revegetation.*

9. No clearing or covering by overburden of any native vegetation is permitted without the prior approval from the Department of Water and Environmental Regulation.
10. The grazing of the western paddocks abutting the properties to the east of Hart View shall be limited to 10 weeks of every year, unless otherwise agreed to in writing by the City of Albany.

**CARRIED 7-2**

**Record of Vote**

Against the Motion: Councillors Goode and Stocks

DIS232: AMENDMENT BY COUNCILLOR BENSON-LIDHOLM

MOVED: COUNCILLOR BENSON-LIDHOLM

SECONDED: COUNCILLOR SMITH

THAT the Responsible Officer Recommendation be AMENDED to remove the following condition:

*Note: The applicant is recommended to undertake soil testing on an annual basis to understand the soil nutrient levels in the chicken grazing areas. Should nutrient levels exceed the requirements of the pastures then changes should be made to the grazing practices e.g. rotate the chicken grazing areas more frequently.*

CARRIED 9-0

Councillor Benson-Lidholm proposed an amendment to the Responsible Officer Recommendation, as the advice note was not considered relevant.

DIS232: AMENDMENT BY COUNCILLOR THOMSON

MOVED: COUNCILLOR THOMSON

SECONDED: COUNCILLOR HAMMOND

THAT the Responsible Officer Recommendation be AMENDED to include the following advice at condition 4:

*Advice: Dogs used as part of the operation shall be managed in such a way that their barking does not negatively impact the amenity of surrounding properties to the satisfaction of the City of Albany.*

CARRIED: 6-3

**Record of Vote**

Against the Motion: Councillors Goode, Smith and Stocks

To address concerns raised by members of the Committee, the Responsible Officer Recommended that advice be appended to the proposed conditions to provide clarity.

DIS232: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for Animal Husbandry – Intensive (Egg Production) at 154 Greatrex Road, King River:

Conditions:

1. All development shall occur in accordance with the stamped, approved plans referenced P2200159, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.
3. 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 level of noise emanating from the premises shall not exceed that prescribed in the Environmental Protection Act 1986, and the Environmental Protection (Noise) Regulations 1997.
5. The measures and actions identified in the Environmental Management Plan dated 7 April 2020 being implemented and maintained to the satisfaction of the City of Albany.
6. No poultry shall be permitted within 50m of the waterway running through the centre of

the property as indicated in red on the stamped, approved plans.

7. The number of poultry on site shall not exceed 750 at any time unless otherwise agreed to in writing by the City of Albany.
8. Weeds shall be controlled and native vegetation allowed to regenerate in the 50m buffer around the water way indicated in red.  
*Advice: The applicant is advised to contact the Oyster Harbour catchment group for advice on weed control and revegetation.*
9. No clearing or covering by overburden of any native vegetation is permitted without the prior approval from the Department of Water and Environmental Regulation.
10. The grazing of the western paddocks abutting the properties to the east of Hart View shall be limited to 10 weeks of every year, unless otherwise agreed to in writing by the City of Albany.

*Note: The applicant is recommended to undertake soil testing on an annual basis to understand the soil nutrient levels in the chicken grazing areas. Should nutrient levels exceed the requirements of the pastures then changes should be made to the grazing practices e.g. rotate the chicken grazing areas more frequently.*

## BACKGROUND

4. The City of Albany has received a development application for free range egg production at 154 Greatrex Road, King River.
5. The development application is a result of a routine inspection of the existing horticultural use (strawberry production) by the Environmental Health team. Whilst on site, the egg production activities were identified. The applicant was advised that this use would require planning approval and preparation of an Environmental Management Plan.
6. The subject site lies to the northern side of Greatrex Road and to the western side of Northwood Lane, approximately 7.5kms to the north-north-east of the Albany City centre.
7. The subject site has an area of approximately 36 hectares and is zoned 'General Agriculture' under the *City of Albany Local Planning Scheme No. 1 (LPS 1)*.
8. The subject site is adjacent to 'Rural Residential' zoned land to the west and 'General Agriculture' zoned land to the north, east and south. A Parks and Recreation Reserve is also located to the south of the subject site.
9. The subject site contains an approved horticultural use, with approximately 300,000 strawberry plants yielding 375 tons of strawberries per year. There is also a small orchard consisting of 60 lemon trees, 30 lime trees, 45 avocado trees and 250 passion fruit vines.
10. Over the last 15 years, the landowner has diversified into the small scale production of free range eggs to complement the existing horticulture activities. Current production levels have been maintained for the last 10 years.
11. The application was advertised for public comment for a period of 21 days, with nearby landowners directly notified by letter.
12. Three submissions were received during advertising which raised concerns in respect to the proposal.
13. The comments, including the proponent's and staffs' recommendations are provided in the attached 'Schedule of Submissions'. The broad issues are identified and discussed later in this report.
14. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

## DISCUSSION

15. The applicant has provided the following (summarised) outline of how the egg production operates:
  - The egg production typically utilises 400 - 500 free range laying chickens to produce around 6,000 dozen eggs per year.
  - In order to maintain production, successive groups of birds are brought in as chicks and raised up until they are ready to lay at 7 months. They are then sold as backyard layers at 18 months of age. The number of chickens can climb as high as 750 for 6 months as the young birds and older birds are both laying. This typically occurs between July and December.
  - Each group of birds (2 groups) typically has a 1-hectare paddock for adult birds with ready access to water and a mobile chicken coup and light weight fencing. These paddocks are shifted monthly and the mobile coups are shifted within the paddocks weekly.
  - Chickens tend to spend most of their time either in or near their coup. This leads to a concentration of manure in that location that is removed with a loader when the coup is shifted and used to fertilise the strawberries and the orchard.
  - The stocking rate is consistent with free range organic poultry standards with the goal of maintaining grass coverage over most of the paddock during the grazing cycle.
  - Each flock is guarded by two (2) Maremma livestock guardian dogs which ensure protection from raptors and foxes.
16. The egg production activities complement the horticultural activities on site and have a regenerative effect on areas of the farm previously used for strawberry production as the grazing of the chickens adds organic nutrients, bacteria and aeration to the soil.
17. The egg production also provides organic fertilizer for the strawberries and orchard that would be otherwise trucked in.
18. The City of Albany Local Planning Scheme No.1 provides the ability for the Local Government to request a number of documents or studies to support applications for Animal Husbandry - Intensive, however these activities are primarily regulated under State policies and guidelines.
19. Many animal premises are subject to environmental regulation, but others, including poultry farms, are not. Where animal premises are not subject to environmental regulation, planning decision-makers may need to consider a broader range of environmental factors and resolve potential land use conflict.
20. As such the Environmental Protection Authorities *Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses*, *State Planning Policy 2.5 – Rural Planning* and the WAPC Poultry Farms Fact Sheet have been the primary instruments used in the assessment of this application.
21. The *State Planning Policy 2.5 – Rural Planning* states animal premises are a rural land use, and are generally supported and encouraged on rural land provided rural amenity and environmental impacts can be effectively managed.
22. *State Planning Policy 2.5 – Rural Planning* also states that rural land uses are to be considered compatible with the preservation of rural character and amenity in rural zones.

23. An Environmental Management Plan has been submitted with this application in accordance with LPS 1 provision 4.7.2.2. This report concludes that the poultry operation is not causing or contributing to the deterioration of the environment and is adequately managing its impact on adjoining properties.
24. The Environmental Protection Authorities *Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses* stipulates a buffer distance of 300-1000m should be provided between poultry farms and sensitive land uses depending on the size and scale. However, it should be noted that this separation distance is for intensive farming (not free range organic) and includes higher intensity and more impactful forms of chicken farming such broiler farms, or caged or barn hens.
25. Currently, the egg production activities are set back approximately 100m from the nearest dwelling to the west, on Hart View.
26. The WAPC Poultry Farms fact sheet states that substantial reductions to buffer distances prescribed in Government Policy and Industry standards may be appropriate with careful site planning or contemporary management techniques such as:
  - Vegetation screening and landscaping: *Vegetation buffer established along the western boundary of the subject site;*
  - Optimal shed location and design: *Small scale "chicken caravan" rotated on a weekly basis;*
  - Mechanised approach to shed ventilation: *open, moveable "chicken caravan". Manure is removed with a loader when the caravan is shifted.*
27. During the creation of the lots on Hart View, potential impacts of the existing horticultural activities on subject site and the new lots was discussed. Mitigation measures applied at the subdivision stage include:
  - A 30m 'Vegetation Protection Area' between the eastern boundary of the lots on Hart View and the subject site;
  - A 100m 'Development Exclusion Zone' restricting development within 100m of the new lots and the subject site; and
  - Notification of potential landowners of lots 120-125 (Hart View) that the land is in close proximity to an intense horticulture business.
28. The proponent has provided correspondence between himself and the City in 2001 expressing concern with the subdivision and requested that future landowners be made aware of the extremely close proximity to an intensive horticulture activity to avoid any potential future problems.
29. Whilst noting the policy was not in existence at the time of the subdivision, *State Planning Policy 2.5 – Rural Planning* seeks to limit the introduction of sensitive land uses that may compromise existing and future primary production on rural land and states "*when determining application for rural living land, the proposal shall not conflict with the primary production of nearby land, or reduce its potential*"
30. It is also worth noting that a number of rural uses can also be considered on the adjacent Rural Residential Area 17 (Hart View) and these uses include "Free Range Poultry Farming".
31. Issues raised through the advertising process primarily relate to the nuisance caused by barking dogs at night, particularly when the western paddocks adjacent to Hart View are grazed.

32. A landowner on Hooper Road also held concerns with the nuisance caused by barking dogs, however this residence is located in excess of 650m from the nearest grazing paddock, which is considered an appropriate buffer under the *Environmental Protection Authorities Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses*.
33. The western paddocks will only be grazed for 6-10 weeks of the year however, in order to label eggs as organic, the chickens must be raised on certified organic feed. The western paddocks are grazed when that side of the farm is not used for Certified Organic strawberries. This enables the chickens to be raised on 97% certified feed and also help the organic strawberry production as chickens are used for organic pest and insect control.
34. Maremma dogs bark loudly at any fox or other predator that comes near the flock and are very effective at repelling foxes. The use of Maremma dogs eliminates predator related bird deaths and the more disruptive need to shoot these animals. Barking reduction collars have been fitted to the dogs in response to neighbour complaints.
35. Despite the above, the keeping of dogs is managed under the *Dog Act 1976* and the *City of Albany Dog Local Law 2017*, therefore not a matter relevant to the assessment of the proposal. The proposal is required to be compliant with the *Environmental Protection (Noise) Regulations 1997*.
36. One adjoining landowner mistakenly believed the application was for an increase in production levels and expressed concerns this may result in noise from both chickens and dogs, offensive smell, potential for ticks and other pests and visual pollution to the rear of the property.
37. This landowner was contacted and informed that the application is for an existing use and no increase in production levels is proposed. When questioned about current impacts they stated the barking of dogs is the only issue experienced at current production levels.

## GOVERNMENT & PUBLIC CONSULTATION

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

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Mail Out	15/05/2020 to 05/06/2020	3 Submissions received	No

40. The proposal was referred to the Department of Biodiversity, Conservation and Attractions and the Department of Primary Industries and Regional Development who had no comment or conditions to provide.
41. The application was also referred to the Department of Water and Environmental Regulation who state that the proposal is generally low risk from a nutrient export position. They also recommended a 50m buffer around the waterway excluded to livestock and planted with native vegetation, particularly sedges to increase nutrient uptake. The 50m exclusion area around the waterway will be implemented as a condition of planning consent.

42. The applicant disputed the requirements for native vegetation planting within this 50m area stating it will provide inferior environmental performance. This was discussed with the Department of Water and Environmental Regulation and it was agreed that excluding grazing from this area and controlling the invasive *Taylorina* and Sydney Golden Wattle, would allow native vegetation to naturally regenerate.
43. This will be implemented as a condition of planning consent and the applicant will be required to contact Department of Water and Environmental Regulation before undertaking any clearance of native vegetation.

#### **STATUTORY IMPLICATIONS**

44. The "Animal Husbandry – Intensive" land use is listed as a ("D") discretionary land use within the "General Agriculture" zone in LPS1.
45. A discretionary ('D') use means that the use is not permitted unless the local government has exercised its discretion by granting development approval.
46. City of Albany Local Planning Scheme No. 1 clause 3.2.20 lists the following objectives for the General Agriculture Zone:
  - a) Provide for the sustainable use of land for agricultural and rural activities;
  - b) Support complementary land uses where those land uses do not detract from adjoining agricultural and rural activities and are compatible with the character and amenity of the area;
  - c) Prevent land uses and development within the zone that may adversely impact on the continued use of the zone for agricultural and rural purposes;
  - d) Provide for value-adding opportunities to agricultural and rural products onsite; and
  - e) Provide for tourism experiences where those developments do not impact upon adjoining agricultural and rural land uses.
47. The proposal complies with the relevant zone provisions listed under 4.5.16 of LPS 1 pertinent to the site.
48. Voting requirements for this item is **SIMPLE MAJORITY**.

#### **POLICY IMPLICATIONS**

49. The proposal is assessed in the context of the *City of Albany Local Planning Scheme No.1, Environmental Protection Authorities Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses, State Planning Policy 2.5 – Rural Planning* and the WAPC Poultry Farms Fact Sheet.
50. The proposal, as submitted is not consistent with the buffer distance provided within the *Environmental Protection Authorities Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses*. However, as the poultry industry is not intensive (free range organic), is ancillary to the horticultural activities on site and objections are generally not relevant to the planning assessment, approval has been recommended.



## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation</b> <i>The approval may generate unacceptable impacts on the amenity on the area.</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>The application has been assessed against the relevant statutory framework. Poultry numbers and grazing areas can be limited to current operational levels.</i>
<b>Opportunity:</b> <i>Facilitate the sustainable development of the agricultural sector and maximise opportunities for diversification of agriculture and downstream processing.</i>				

## FINANCIAL IMPLICATIONS

52. All costs associated with the development will be borne by the proponent.
53. 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

54. 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.
55. 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

56. The waterway on the property is utilised for crop irrigation and is a direct tributary to the King River, 1.4 km downstream. The Department of Water and Environmental Regulation has recommended a 50m setback, and maintenance of native vegetation around this waterway.
57. The land use may result in excessive nutrient levels in the soil. The applicant is recommended to undertake soil testing on an annual basis to understand the soil nutrient levels in the chicken grazing areas. Should nutrient levels exceed the requirements of the pastures then changes should be made to the grazing practices e.g. rotate the chicken grazing areas more frequently.
58. The Environmental Management Plan concludes that the poultry operation is not causing or contributing to the deterioration of the environment and is adequately managing its impact on adjoining properties.

## ALTERNATE OPTIONS

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

- To resolve to refuse the proposal subject to reasons; and
- To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

## CONCLUSION

60. The proposal has been assessed against LPS 1, the Environmental Protection Authorities *Guidance for the Assessment of Environmental Factors Separation Distances between Industrial and Sensitive Land Uses*, *State Planning Policy 2.5 – Rural Planning* and the WAPC Poultry Farms Fact Sheet.
61. The majority of matters raised in the public submissions are not regulated under the planning system. Additional amenity impacts can be mitigated through the application of appropriate planning conditions.
62. In determining the application, it is necessary to consider relevant impacts on amenity against the need to facilitate the sustainable development of the agricultural sector and maximise opportunities for diversification of agriculture and downstream processing.
63. It is therefore recommended that Council approved the proposed development, subject to the conditions provided.

<b>Consulted References</b>	:	1. Local Planning Scheme No. 1 2. Separation Distances between Industrial and Sensitive Land Uses 3. State Planning Policy 2.5 – Rural Planning 4. WAPC Poultry Farms Fact Sheet
<b>File Number (Name of Ward)</b>	:	A55730 Yakamia Ward
<b>Previous Reference</b>	:	Nil

## DIS233: MARKET – 131 YORK STREET, ALBANY

Land Description	: 131 York Street, Albany WA 6330
Proponent	: Michael William Keeler
Business Entity Name	: N/A
Attachments	: 1. Copy of Application 2. Schedule of Submissions
Report Prepared By	: Planning Officer (D Ashboth)
Responsible Officers:	: Executive Director Infrastructure, Development and Environment (P Camins)

### STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. This item relates the following elements of the City of Albany Strategic Community Plan 2030:

**Theme:** Smart Prosperous and Growing

**Objective:** To strengthen and grow our region's economic base

**Community Priority:** Work with business and other stakeholders to attract investment, diversify the economy, create jobs and support small business growth.

### Maps and Diagrams: 131 York Street, Albany



**In Brief:**

- The City of Albany has received a development application for 131 York Street, Albany. The proposal is to establish “Market” (food and event venue) for a 6-month trial on private land on York Street between Peels Place and Stirling Terrace.
- The “Market” land use will include rotating food vans, pop-ups and daily stalls with regular additional food, music or other similar micro-events.
- The land use of “Market” is considered a “D” discretionary use within the “Regional Centre” zone in accordance with LPS1.
- A discretionary (‘D’) use means that the use is not permitted unless the local government has exercised its discretion by granting development approval.
- The proposal was advertised to the public via direct mail out, a sign was erected on site and a Public Briefing Note was published on the City of Albany website. Through these processes, a total of twenty-six (26) responses were received. The submissions are discussed in detail throughout the report.
- The application was also referred to the Department of Planning, Lands and Heritage and the City of Albany’s Heritage Advisor who stated no objections to the proposal.
- Staff recommend that Council approve the proposed development, subject to conditions.

**RECOMMENDATION**

**DIS233: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for a “Market” at 131 York Street, Albany:**

**Conditions:**

1. All development shall occur in accordance with the stamped, approved plans referenced P2200078, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
2. This development approval is for a fixed term of six-month (as a trial only).

***Advice:***

***The six-month trial period begins from the date of council approval***

3. Sign(s) shall not be erected on the lot without the prior approval of the City of Albany.

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

4. The level of noise emanating from the premises shall not exceed that prescribed in the Environmental Protection Act 1986, and the Environmental Protection (Noise) Regulations 1997.
5. 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.
6. The loading and unloading of goods shall occur entirely within the site and be undertaken in a manner so as to cause minimum interference with other vehicular traffic.
7. Aside from refuse storage, ablution facilities and goods stored within the storage container, no overnight storage of goods or materials will be permitted, unless otherwise agreed in writing by the City of Albany.

***Advice: This includes tables and chairs, shelter, stages, speakers and/or other goods which may be related to the general operations or special events held on the premises.***

8. The development hereby approved shall be illuminated when sought to be used by patrons during hours of darkness, to the satisfaction of the City of Albany.
9. No person shall install or cause or permit the installation of outdoor lighting otherwise than in accordance with the requirements of Australian Standard AS 4282 - 2019 Control of the Obtrusive Effects of Outdoor Lighting.
10. Hours of operation shall be limited to 11:00am to 2.00pm Monday to Saturday and 6.00pm and 10.00pm on Friday and Saturday evenings, unless otherwise agreed in writing by the City of Albany.

*Advice: The City may be open to considering additional opening hours on weekends if requested.*

11. The number of vendors operating on site shall be limited in number to six at all times, and seating numbers shall be restricted to 20 at all times, unless otherwise agreed in writing by the City of Albany.

*Advice: The provision of on-site ablution facilities has not been conditioned on the basis of seating numbers being limited to 20 people. Should seating numbers exceed 20, a minimum of one (1) on-site accessible ablution facility will be required at all times of food service and preparation.*

12. Vendors shall be limited to those serving food and non-alcoholic beverages and or selling regional produce, unless otherwise agreed to in writing by the City of Albany.
13. The storage container and ablution facilities shall remain located to the rear (west) of the site at all times, unless otherwise agreed in writing by the City of Albany.
14. Suitable arrangements shall be made with, and to the satisfaction of the City of Albany, to fund the monitoring of car parking levels.

*Advice: The estimated cost of this activity to the City is approximately \$300 for the trial period.*

15. Prior to the commencement of the development, details of the materials and colours to improve the appearance of the storage container hereby approved shall be submitted and implemented to the satisfaction of the City of Albany.

*Advice: Repainting the container in a single colour will not be sufficient, it is expected that a local artist will be commissioned to paint the container in a way that is complementary to the locality. The City may also consider recladding of the storage container in materials which complement other buildings in the locality.*

16. A plan indicating the location and type of refuse storage shall be submitted for approval by, and implemented to the satisfaction of the City of Albany.

*Advice: The refuse storage shall be capable of accommodating all waste produced by the development and shall be screened from the public view.*

*Note: Any future site improvement work will require an additional development application. Site improvements identified within the Public Briefing Note would require consideration of the potential archaeology, especially if this will require the removal of the current hard surface.*

*Note: This approval relates only to the day to day operations of the market. Written permission is required from the City of Albany if the applicant seeks to alter the operating hours or product offerings from those conditioned within the development approval.*

DIS233: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR THOMSON  
SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED:

CARRIED 9-0

DIS233: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for a “Market” at 131 York Street, Albany:

Conditions:

1. All development shall occur in accordance with the stamped, approved plans referenced P2200078, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
2. This development approval is for a fixed term of six-month (as a trial only).  
*Advice: The six-month trial period begins from the date of council approval*
3. Sign(s) shall not be erected on the lot without the prior approval of the City of Albany.  
*Advice: Please refer to the City of Albany Local Planning Policy – Signs for further information.*
4. The level of noise emanating from the premises shall not exceed that prescribed in the Environmental Protection Act 1986, and the Environmental Protection (Noise) Regulations 1997.
5. 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.
6. The loading and unloading of goods shall occur entirely within the site and be undertaken in a manner so as to cause minimum interference with other vehicular traffic.
7. Aside from refuse storage, ablution facilities and goods stored within the storage container, no overnight storage of goods or materials will be permitted, unless otherwise agreed in writing by the City of Albany.  
*Advice: This includes tables and chairs, shelter, stages, speakers and/or other goods which may be related to the general operations or special events held on the premises.*
8. The development hereby approved shall be illuminated when sought to be used by patrons during hours of darkness, to the satisfaction of the City of Albany.
9. No person shall install or cause or permit the installation of outdoor lighting otherwise than in accordance with the requirements of Australian Standard AS 4282 - 2019 Control of the Obtrusive Effects of Outdoor Lighting.
10. Hours of operation shall be limited to 11:00am to 2.00pm Monday to Saturday and 6.00pm and 10.00pm on Friday and Saturday evenings, unless otherwise agreed in writing by the City of Albany.  
*Advice: The City may be open to considering additional opening hours on weekends if requested.*
11. The number of vendors operating on site shall be limited in number to six at all times, and seating numbers shall be restricted to 20 at all times, unless otherwise agreed in writing by the City of Albany.  
*Advice: The provision of on-site ablution facilities has not been conditioned on the basis of seating numbers being limited to 20 people. Should seating numbers exceed 20, a*

*minimum of one (1) on-site accessible ablution facility will be required at all times of food service and preparation.*

12. Vendors shall be limited to those serving food and non-alcoholic beverages and or selling regional produce, unless otherwise agreed to in writing by the City of Albany.
13. The storage container and ablution facilities shall remain located to the rear (west) of the site at all times, unless otherwise agreed in writing by the City of Albany.
14. Suitable arrangements shall be made with, and to the satisfaction of the City of Albany, to fund the monitoring of car parking levels.

*Advice: The estimated cost of this activity to the City is approximately \$300 for the trial period.*

15. Prior to the commencement of the development, details of the materials and colours to improve the appearance of the storage container hereby approved shall be submitted and implemented to the satisfaction of the City of Albany.

*Advice: Repainting the container in a single colour will not be sufficient, it is expected that a local artist will be commissioned to paint the container in a way that is complementary to the locality. The City may also consider recladding of the storage container in materials which complement other buildings in the locality.*

16. A plan indicating the location and type of refuse storage shall be submitted for approval by, and implemented to the satisfaction of the City of Albany.

*Advice: The refuse storage shall be capable of accommodating all waste produced by the development and shall be screened from the public view.*

*Note: Any future site improvement work will require an additional development application. Site improvements identified within the Public Briefing Note would require consideration of the potential archaeology, especially if this will require the removal of the current hard surface.*

*Note: This approval relates only to the day to day operations of the market. Written permission is required from the City of Albany if the applicant seeks to alter the operating hours or product offerings from those conditioned within the development approval.*

## BACKGROUND

3. The City of Albany has received an application for development approval for a Market at 131 York Street, Albany.
4. The subject site is located within the Albany CBD along the City's High Street (York Street), approximately 35m north of the Stirling Terrace intersection.
5. The subject site is 598m<sup>2</sup> in area and zoned Regional Centre *under Local Planning Scheme No.1* (LPS 1). The subject site also falls within the City of Albany's *Albany Town Centre Policy Area* and is considered a City of Albany Heritage Site.
6. The subject site is currently vacant and used as overflow vehicle parking for a number of businesses to the north of the site including Blush Retail Gallery and Keston Technologies. The site contains a gate preventing vehicular access from York Street and remains largely unoccupied by vehicles.
7. The subject site is surrounded by commercial businesses within the Regional Centre Zone in all directions. The nearest Residential zoned land is located approximately 150m to the west. The adjacent Regional Centre Mixed Use Zone provides a buffer between the Regional Centre Zone and Residential Zone.

8. The application was advertised for public comment for a period of 23 days, with landowners of commercial businesses within a 350m radius of the premises directly notified by letter. A planning notice was also placed on site notifying of the planning proposal and a public briefing note was placed on the City of Albany website.
9. Through this process, a total of twenty-six (26) responses were received; fourteen (14) objections, eleven (11) letters of support and one had no objections however requested more rangers on duty during operating hours to ensure parking time limits are not exceeded.
10. The comments, including the proponent's and staffs' recommendations are provided in the attached 'Schedule of Submissions'. The broad issues are identified and discussed later in this report.
11. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

## **DISCUSSION**

12. The applicant has provided the following (summarised) outline of how the proposed market will operate:
  - The vacant land subject to this application will be leased in the interest of establishing a private market for individual food and beverage stall holders.
  - It is intended that the market would operate between 11.00am and 2.00pm Monday to Saturday and between 6.00pm and 10.00pm Friday and Saturday evenings.
  - Vendors will be able to pre-book a site at the markets for each operational period, with fees charged accordingly. Vendors will be required to arrive before the operational period with movement and setup to be coordinated by a site manager.
  - All vendors will be required to hold appropriate individual licences and uphold all legal requirements and obligations.
  - Beyond general food and beverage operations, the space may allow for live music, movie screenings, performing arts, pop-up bars, arts and craft markets etc. Depending on the requirements for each type of event, special licences and permissions will be applied for through the City of Albany and/or other relevant state government departments.
  - A sea container is proposed to be placed at the rear (west) of the site for storage of tables, chairs, bins and other items required for operations. The structure will be anchored to the ground and painted by a local artist to improve appearance from York Street. No other fixed structures are proposed.
13. The application was assessed and the proposed development complies (or through satisfying standard conditions will comply) with all but one of the development standards and requirements of the Scheme. The non-compliant matter relates to the provision of car parking.

### Car Parking

14. The application does not propose any on-site car parking, therefore the applicant has requested a complete exemption to the standards and requirements for vehicle parking.
15. The parking rates for the scheme area are set under the City of Albany Local Planning Scheme No.1 (LPS). The City of Albany's Town Centre Policy however relaxes the scheme requirements for parking in the CBD to facilitate appropriate new private development.
16. The City of Albany's Town Centre Policy requires 'Other Retail' to provide parking a rate of 1 bay per 35m<sup>2</sup> gross floor area.
17. As the entire site will be used for food sales and pedestrian circulation, it was considered appropriate to calculate parking requirements against the total area of the site. The market is therefore required to provide 18 car parks under the *Albany Towns Centre Policy*.



18. It should be noted that this parking rate is consistent with the Policy parking requirements for 'Restaurant' and the smaller LPS1 requirement for 3 bays per stall for 'Market' but not the larger scheme requirement of 1 bay per 10m2.
19. The Policy allows for a relaxation of car parking requirements in the following circumstances:
  - *the shortfall in required parking bays is not substantial (5 or less); or*
  - *there are on-street parking bays available in close proximity to those bays for use by the intended workers, visitors or customers of the proposed development, or sufficient parking bays are available on nearby private land and permission has been given for the applicant to use or share those bays; and*
  - *There will be a minimal disruption to the amenity of the area for residents or businesses by permitting the on-site shortfall in parking to occur.*
20. Staff calculated approximately 112 on-street car parking bays and 3 motorcycle bays within a 100m proximity of the subject site. In addition to these on-street parking bays a considerable amount of off-street parking is available within the public parking area to the north of Peels Place.
21. The markets are in close proximity to a number of alternative transport options with the Peels Place Bus Interchange and Albany City Cabs and Transport both located less than 100m from the subject site.
22. In support of the car parking variation the applicant has highlighted that:
  - The majority of patrons are expected to walk to the site as the target audience for lunchtime operations are employees of CBD businesses and persons already in and around the CBD;
  - The markets will only be open for three hours during lunchtime trade. During evening operations and on weekends, it is expected that patrons will come from external locations to the CBD and hence a greater number of parking will be required for this period. However, during these times available parking bays in the CBD increase significantly.
23. The *Albany Town Centre Policy* also provides for Cash-in-lieu of parking to be considered where non-residential developments have a shortfall of parking bays. If cash in lieu were to be considered, the proponents would have to contribute an approximate amount of \$3200 per bay, or a total payment of \$57,600.
24. Given the temporary nature of the use and the trial period, a requirement for Cash in Lieu of parking is not considered appropriate and would diminish the viability of the proposal. This may be an option in future for a more permanent form of commercial development or use on the subject site.
25. The application is for a 6-month trial period only. The trial period will allow the impact on CBD parking to be monitored and a decision on any potential extension period or permanent land use to be made accordingly. A condition is recommended to ensure suitable arrangement are made with the City to fund the monitoring of car parking availability.
26. In assessing the car parking shortfall, it was considered that the expected benefits of the development including increased vibrancy and foot traffic throughout the City high street outweigh the potential implications of the car parking relaxation for a temporary use.

Relationship to the Street

27. The *Albany Town Centre Policy* requires buildings to address the street, while blank walls, heavy planting, screen walls or opaque roller shutters are to be avoided.
28. City staff therefore recommend a condition requiring the sea container to be located to the rear (west) of the site and its appearance improved in a manner that is complementary to the locality be placed as a condition of any approval.

29. The *Albany Town Centre Policy* requires buildings present an interesting and attractive edge to the public domain. It is considered that temporary structures including, but not limited to, tables, chairs, stalls, bins etc. may threaten the attainment of this provision, as well as present a safety hazard if left out while the site is unoccupied. Staff therefore recommend a condition to ensure no temporary structures, aside from the storage container and its contents therein are left on site outside of periods of occupation.

Amenity

30. The site is within the Albany CBD and main commercial hub. From an amenity perspective it would be expected noise, smell and impacts on amenity will be most prominent to the offices and gallery to the north, the offices to the south and the hostel to the west of the subject site.
31. These businesses were either supportive or provided no objection to the application. Nevertheless, staff recommend a condition ensuring the development shall not prejudicially affect the amenity of the neighbourhood by but not limited to, the emission of noise, vibration, smell, smoke or dust be placed as a condition of any approval.
32. The applicant will also be required to ensure the level of noise emanating from the premises does not exceed that prescribed in the Environmental Protection Act 1986, and the Environmental Protection (Noise) Regulations 1997.

Waste

33. It is anticipated that the market will produce a considerable amount of waste. The applicant has advised that small bins will be provided on site during operational hours and permission has been received from the adjacent landowners to the north to place a large lidded skip bin behind their building.
34. Staff recommend that a plan indicating the location and type of refuse storage shall be submitted for approval by, and implemented to the satisfaction of the City of Albany.
35. No ablution facilities are proposed on site during normal operating hours with the applicant noting the location of public toilets at the Women's Rest Centre to the south of the site which would be available for use by patrons.
36. The Environmental Health Team have noted that under the National Construction Code (NCC), Sanitary Facilities (toilets) are to be provided if the building (premises) will accommodate more than 20 patrons. The applicant has therefore agreed to limit patron seating to 20 in order to avoid this requirement. This is recommended as a condition of planning consent.

Number of stall holders

37. Due to a limited site area, staff recommend a condition restricting the number of stall holders to six as per the indicative site plan, unless otherwise agreed to by the City of Albany. The applicant was contacted regarding this condition and is satisfied this will not adversely affect the general operation of the market provided there is flexibility to apply to increase this limit for special events.

38. The main concerns raised during the advertising period and staff's response to these concerns, including mitigation measures are outlined in the table below.

Summary of submissions	Officer comment
Car parking deficiency	A significant number of available on-street car parks were recorded within the proposed operating hours of the market. In addition, the site is located in close proximity to a number of off-street car parks, Albany City Cabs and the Peels Place Bus Interchange. The applicant has stated majority of patrons are expected to walk to the site as the target audience for lunchtime operations are those already located within, or in close proximity to the CBD. During evening hours, the number of vacant car parks greatly increases. The trial period will allow the impact on CBD parking to be monitored and a decision on any potential extension to the trial period to be made accordingly.
Concerns with impact on existing businesses	The planning system does not allow for consideration of financial impact on other businesses in the assessment of planning applications. Statements that the proposed application will have a negative impact on other food and beverage operators are unverified and a neutral or positive financial impact cannot be ruled out. It is also possible that the proposal could have a positive financial impact on other forms of CBD retail due to increased foot traffic. Council will have the ability to re-assess this following the conclusion of the 6-month trial period.
Suggestions that alternative locations are better suited for food trucks.	Council must assess the application as it is placed before them. The proposal is considered a 'D' discretionary use within the Regional Centre Zone and must be assessed as such. The City provides alternative locations for food trucks through its Trading in Public Places Policy.
Requests for support for food and beverage vendors through community events supported by the City of Albany.	Request noted however, this is unable to be considered as part of the planning assessment.
Concerns with lack of toilet facilities	Under the National Construction Code Sanitary Facilities (toilets) are to be provided if the building (premises) will accommodate more than 20 patrons. The applicant has therefore agreed to limit patron seating to 20 in order to avoid this requirement. This is recommended as a condition of planning consent.
Impacts on the amenity of the area especially as it relates to noise	While the potential does exist for an increase in noise, the proposal is located within the centre of the Albany CBD where a certain level of noise is expected. It is noted that the landowners most likely to be impacted by the noise either supported, or had no objection to the proposal. The operation of the venue would also be required to comply with the <i>Environmental Protection (Noise) Regulations 1997</i> .
Concerns with alcohol service and resultant antisocial behaviour	In the public briefing note the applicants have stated the provision of a pop-up bar will be explored in the longer term, following the trial period. A condition restricting the service of alcoholic beverages unless otherwise approved in writing by the City of Albany is recommended. Any anti-social behaviour, such as disorderly conduct or criminal damage would fall under the jurisdiction of Western Australia Police.

Summary of submissions	Officer comment
Concerns with litter and waste disposal	Bins will be placed throughout the premises and the applicant will be required to ensure overflow rubbish does not litter the site. It is recommended that a condition requiring a plan indicating the location and type of refuse storage be submitted for approval by, and implemented to the satisfaction of the City of Albany.

39. It is recommended that Council approve the proposed development, subject to the conditions recommended.

## GOVERNMENT & PUBLIC CONSULTATION

40. The application was advertised for public comment for period of 23 days, with landowners of commercial businesses within a 350m radius of the premises directly notified by letter. A planning notice was also placed on site notifying of the planning proposal and a public briefing note was placed on the City of Albany website.
41. Twenty-six (26) responses were received during advertising; fourteen (14) objections, eleven (11) letters of support and one (1) letter of support subject to modifications.
42. The comments, including the proponent's and staffs' recommendations are provided in the attached 'Schedule of Submissions'. The broad issues are summarised and discussed above.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Mail out	28/07/2020 to 20/08/2020	26 Submissions received	Yes
Consult	Notice on site	29/07/2020 to 20/08/2020		No
Consult	Public Comment – City website	28/07/2020 to 20/08/2020		No

43. The proposal was referred to the Department of Planning, Lands and Heritage for comment as the site was considered a State Heritage Site (Law Offices fmr).
44. State Heritage had no objection or additional comments to add to the proposal. The site has since been removed from the State Heritage List.
45. The proposal was also referred to the City's heritage advisor as the site is considered a City of Albany Heritage Site.
46. The City's heritage advisor had no objections to the proposal however, suggested no structures should be placed in front of the south elevation of the Law Offices (York House) to maintain visibility. However, as the structures will not be permanent fixed structures it is considered applying this as a condition would unnecessarily restrict the operations of the markets.
47. The City's heritage advisor also recommended a consideration of potential archaeology be advised for any future resurfacing of the carpark or site redevelopment.

## **STATUTORY IMPLICATIONS**

48. The “Market” land use is listed as a (“D”) discretionary land use within the “Regional Centre” zone in LPS1.
49. A discretionary (‘D’) use means that the use is not permitted unless the local government has exercised its discretion by granting development approval.
50. City of Albany Local Planning Scheme No. 1 clause 3.2.8 lists the following objectives for the Regional Centre zone:
  - a) Provide for a broad range of commercial, entertainment, administrative, government, cultural, inner-city residential and social activities, consistent with the zone’s status as the regional centre for the Great Southern region;
  - b) Ensure that development within the zone recognises and complements surrounding land uses and existing streetscape elements, in particular:
    - (i) The height, scale, character and fine-grained nature of buildings;
    - (ii) Incorporates spaces for public art, social interaction and street activities that add vibrancy and vitality to the City;
    - (iii) Promotes the renovation, adaptation and re-use of recognised heritage buildings and places; and
    - (iv) Weather protection.
  - c) Support and promote transport modes to and access through the zone to achieve better travel efficiency and develop synergies between streets and parking areas;
  - d) Ensure adequate provision is made for the parking of vehicles and the landscaping of lots; and
  - e) Retain heritage buildings, features and characteristics for the protection of Albany’s historic values.
51. City of Albany Local Planning Scheme No.1 (LPS 1) includes a parking requirement for a “Market “of 3 spaces/stall or 1 space per 10m<sup>2</sup> whichever is greater and Bicycle Parking at a rate of 1 per 10 car bays.
52. The proposal complies (except for parking) with the relevant zone provisions listed under 4.5.6 of LPS 1.
53. Voting requirement for this item is **SIMPLE MAJORITY**.

## **POLICY IMPLICATIONS**

54. The proposal is assessed in the context of the City of Albany’s Local Planning Scheme and Albany Town Centre Policy.
55. The City of Albany’s Town Centre Policy relaxes the scheme requirements for parking in the CBD to facilitate appropriate new private development.
56. The proposal, as submitted is not consistent with the parking requirements of the Albany Town Centre Policy. As the proposed market is small in scale, its operation will be limited to three daylight hours (for lunch service) and targeting patrons already within the CBD a pragmatic approach has been undertaken for an assessment against the Policy. The six-month trial period will allow impact on CBD parking to be monitored and a decision on any potential extension to the trial period to be made accordingly.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation and Community</b> <i>The approval may result in a lack of car parking availability on lower York Street and the immediate vicinity.</i>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<i>The application has been assessed against the relevant statutory framework. Potential impacts on car parking can be mitigated by the application of a six-month trial period.</i>
<b>Opportunity:</b> <i>Responds to need to maintain the Albany City Centre as a vibrant and active regional centre.</i>				

**FINANCIAL IMPLICATIONS**

58. All costs associated with the development will be borne by the proponent.
59. 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**

60. 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.
61. 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**

62. The subject lot is currently vacant with a hardstand used as overflow parking for occupants of the northern office and retail building. There are no environmental implications directly relating to this item.

**ALTERNATE OPTIONS**

63. Council has the following alternate options in relation to this item, which are:
- To resolve to refuse the proposal subject to reasons; and
  - To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

**CONCLUSION**

64. The proposal, except for the parking requirements are consistent with all the provisions of the *Local Planning Scheme No.1* and the *Albany Town Centre Policy*.
65. The majority of matters raised in the public submissions received during the advertising period have been addressed and can be mitigated through the application of appropriate planning conditions.
66. The application does not propose any on-site car parking, therefore the applicant has requested a complete exemption to the standards and requirements for vehicle parking.
67. Given the the temporary nature of the use and the trial period, a requirement for Cash in Lieu of parking is not considered appropriate
68. The trial period will allow the impact on CBD parking to be monitored and a decision on any potential extension to the trial period to be made accordingly.

69. The expected benefits of the development including increased vibrancy and foot traffic throughout the City high street outweigh the potential implications of the car parking relaxation for a temporary use.
70. It is therefore recommended that Council approved the proposed development, subject to the conditions provided.

<b>Consulted References</b>	:	1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Town Centre Policy</i> 3. <i>Albany Local Planning Strategy 2019</i>
<b>File Number (Name of Ward)</b>	:	A248042 Frederickstown Ward
<b>Previous Reference</b>	:	Nil

## DIS234: C20014 - CONSTRUCTION OF PUMP TRACK AND JUMP PARK AT CENTENNIAL PARK, ALBANY WA

Land Description	: Youth Challenge Park, Sanford Road, Centennial Park.
Proponent / Owner	: City of Albany
Attachments	: Confidential Attachment Under Separate Cover
Report Prepared By	: Major Projects Officer (R. Taylor)
Responsible Officers:	: Executive Director Infrastructure & Environment (P. Camins)

### CONFIDENTIAL ATTACHMENT

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

### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** Community Health and Participation
  - **Objective:** To create interesting places, spaces and events that reflect our community's identity, diversity and heritage.  
To develop and support a healthy inclusive and accessible community.
  - **Community Priority:** Provider positive leadership that delivers community outcomes.  
Develop a range of activities and facilities that connect people, promote a healthy community and are appropriate for all ages.

### Maps and Diagrams:





**In Brief:**

- Following a competitive tender process, Council approval is sought to award the tender for the Contract C20014 - Construction of Pump Track and Jump Park at Centennial Park, Albany WA to Tenderer A.

**COVID-19 IMPACT**

2. No anticipated impacts.

**RECOMMENDATION**

**DIS234: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council ACCEPT the tender recommended by the evaluation panel in the Confidential Briefing Note and AWARD contract C20014 – Construction of Pump Track and Jump Park at Centennial Park, Albany WA.**

**DIS234: COMMITTEE RECOMMENDATION**

**MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR GOODE**

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

**CARRIED 9-0**

**DIS234: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council ACCEPT the tender recommended by the evaluation panel in the Confidential Briefing Note and AWARD contract C20014 – Construction of Pump Track and Jump Park at Centennial Park, Albany WA.**

**BACKGROUND**

3. Tenders were called for Construction Works; Pump Track and Jump Park at Centennial Park, Albany WA.
4. It is preferable to commence works at the earliest possible time to ensure practical completion in accordance with funding requirements.

**DISCUSSION**

5. The standard tender process as prescribed by the Local Government Act 1995 (the Act) and Local Government (Function and General) Regulations 1996 (the Regulations).
6. Tenders were advertised both state-wide and locally from the 9 September 2020 and were closed on 30 September 2020.
7. Nineteen (19) tender documents were downloaded from the City of Albany website, resulting in the City receiving one (1) conforming tender.

**Evaluation of Tenders**

8. The tender panel evaluated tenders using the weighted criteria methodology across five key areas, shown in Table 1.

**Table 1 – Evaluation Criteria**

Criteria	% Weighting
Relevant Experience and Key Personnel	25%
Demonstrated Understanding and Tenderer's Resources	20%
Corporate Social Responsibility	5%
Cost	50%
<b>Total</b>	<b>100%</b>

9. The following Table 2 summarises the tenders and the overall evaluation scores applicable.

**Table 2 – Summary of Tender Submissions**

Tenderer	Total	Rank
Tenderer A	613.33	1

10. Tenderer A ranked highest with the highest total weighted score being the only submission.
11. From the evaluation scoring, clarification and financial check processes Tenderer A are the preferred tender and consequently it is recommended that their tender be accepted and the contract be awarded.

**GOVERNMENT & PUBLIC CONSULTATION**

12. There is no government consultation required for the award of Construction Works for the Pump Track and Jump Park at Centennial Park.
13. The funding body and public will be notified with regard to the outcome of the award and timeframe for implementation.
14. Community Engagement through Design Development

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)
Consult	Survey/Face to Face/Workshop	18 December 2018	56
Consult	Survey/Face to Face/Workshop	2-3 February 2019	80
Consult	Survey/Face to Face/Workshop	15 February 2020	87
Consult	Community Working Group	10 October 2019, 16 December 2019, 21 January 2020, 11 February 2020	10

**STATUTORY IMPLICATIONS**

15. Regulation 11 of the Regulations requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$150,000.
16. Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
17. Regulation 19 of the Regulations requires Council to advise each tenderer in writing of Council's decision.
18. Voting Requirement: **Simple Majority**

## POLICY IMPLICATIONS

19. The City of Albany Tender Policy and Regional Price Preference Policy are applicable to this item.

## 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>City Operations:</b> Failure to deliver project within specified timeframe	Possible	Major	High	Award construction tender as soon as possible to satisfy funding conditions for project completion.
<b>Business Interruption:</b> Council does not support recommendation for tender award	Possible	Major	Medium	City Officer address any issues / concern, to facilitate Council making a timely decision.
<b>Opportunity:</b> Project developed and delivered on time for the benefit of the community use and precinct activation.				

## FINANCIAL IMPLICATIONS

21. The recommended tender is within overall project budget.

## LEGAL IMPLICATIONS

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

## ENVIRONMENTAL CONSIDERATIONS

23. The contractor's environmental sustainability policy will apply to this contract.  
24. Site management controls will be enforced to mitigate adverse any possible environmental impacts.

## ALTERNATE OPTIONS

25. The options are:
- Council can elect to accept the recommended tender,
  - Not approve any tender.

## CONCLUSION

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

Consulted References	:	<ul style="list-style-type: none"> <li>• Local Government Act 1995</li> <li>• Local Government (Functions and General) Regulations 1996</li> <li>• Council Policy: Purchasing Policy (Tenders and Quotes) <ul style="list-style-type: none"> <li>○ Tender/Contract Procedure</li> <li>○ Evaluation Procedure (Tenders and Quotations)</li> </ul> </li> <li>• Council Policy: City of Albany Buy Local Policy (Regional Price Preference)</li> </ul>
File Number (Name of Ward)	:	CP.DEC.40
Previous Reference	:	N/A

## DIS235: C20013 - CONSTRUCTION OF SKATE PLAZA AT CENTENNIAL PARK, ALBANY WA

Land Description	: Youth Challenge Park, Sanford Road, Centennial Park.
Proponent / Owner	: City of Albany
Attachments	: <b>Confidential Attachment Under Separate Cover</b>
Report Prepared By	: Major Projects Officer (R. Taylor)
Responsible Officers:	: Executive Director Infrastructure & Environment (P. Camins)

### CONFIDENTIAL ATTACHMENT

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

### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** Community Health and Participation
  - **Objective:** To create interesting places, spaces and events that reflect our community's identity, diversity and heritage.  
To develop and support a healthy inclusive and accessible community.
  - **Community Priority:** Provider positive leadership that delivers community outcomes. Develop a range of activities and facilities that connect people, promote a healthy community and are appropriate for all ages.

### Maps and Diagrams:



**In Brief:**

- Following a competitive tender process, Council approval is sought to award the tender for the Contract C20013 - Construction of Skate Plaza at Centennial Park, Albany WA to Tenderer A.

**COVID-19 IMPACT**

2. No anticipated impacts.

**RECOMMENDATION**

**DIS235: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council ACCEPT the tender recommended by the evaluation panel in the Confidential Briefing Note and AWARD contract C20013 – Construction of Skate Plaza at Centennial Park, Albany WA.**

**DIS235: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR THOMSON  
SECONDED: MAYOR WELLINGTON**

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

**CARRIED 9-0**

**DIS235: RESPONSIBLE OFFICER RECOMMENDATION**

**THAT Council ACCEPT the tender recommended by the evaluation panel in the Confidential Briefing Note and AWARD contract C20013 – Construction of Skate Plaza at Centennial Park, Albany WA.**

**BACKGROUND**

3. Tenders were called for Construction Works; Skate Plaza at Centennial Park, Albany WA.
4. It is preferable to commence works at the earliest possible time to ensure practical completion in accordance with funding requirements.

**DISCUSSION**

5. The standard tender process as prescribed by the Local Government Act 1995 (the Act) and Local Government (Function and General) Regulations 1996 (the Regulations).
6. Tenders were advertised both state-wide and locally from the 2 September 2020 and were closed on 23 September 2020.
7. Twenty (20) tender documents were downloaded from the City of Albany website, resulting in the City receiving three (3) conforming tender submissions with three (3) tenderers submitting conforming offers.

**Evaluation of Tenders**

8. The tender panel evaluated tenders using the weighted criteria methodology across five key areas, shown in Table 1.

**Table 1 – Evaluation Criteria**

Criteria	% Weighting
Relevant Experience and Key Personnel	25%
Demonstrated Understanding	20%
Corporate Social Responsibility	5%
Cost	50%
<b>Total</b>	<b>100%</b>

9. The following Table 2 summarises the tenders and the overall evaluation scores applicable.

**Table 2 – Summary of Tender Submissions**

Tenderer	Total	Rank
Tenderer A (Preferred)	705.97	1
Tenderer B	624.68	2
Tenderer C	538.10	3

10. From the evaluation scoring, clarification and financial check processes, Tenderer A are the preferred tender and consequently it is recommended that their tender be accepted and the contract be awarded.

**GOVERNMENT & PUBLIC CONSULTATION**

11. There is no government consultation required for the award of Construction Works for the Skate Park.
12. The funding body and public will be notified with regard to the outcome of the award and timeframe for implementation.
13. Community Engagement through Design Development:

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)
Consult	Survey/Face to Face/Workshop	18 December 2018	56
Consult	Survey/Face to Face/Workshop	2-3 February 2019	80
Consult	Survey/Face to Face/Workshop	15 February 2020	87
Consult	Community Working Group	10 October 2019, 16 December 2019, 21 January 2020, 11 February 2020	10

**STATUTORY IMPLICATIONS**

14. Regulation 11 of the Regulations requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$150,000.
15. 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.
16. Regulation 19 of the Regulations requires Council to advise each tenderer in writing of Council's decision.
17. Voting Requirement: **Simple Majority**

**POLICY IMPLICATIONS**

18. The City of Albany Tender Policy and Regional Price Preference Policy are applicable to this item.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>City Operations:</b> Failure to deliver project within specified timeframe	Possible	Major	High	Award construction tender as soon as possible to satisfy funding conditions for project completion.
<b>Business Interruption:</b> Council does not support recommendation for tender award	Possible	Major	Medium	City Officer address any issues / concern, to facilitate Council making a timely decision.
<b>Opportunity:</b> Project developed and delivered on time for the benefit of the community use and precinct activation.				

**FINANCIAL IMPLICATIONS**

20. The recommended tender is within budget.

**LEGAL IMPLICATIONS**

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

**ENVIRONMENTAL CONSIDERATIONS**

22. The contractor's environmental sustainability policy will apply to this contract.
23. Site management controls will be enforced to mitigate adverse any possible environmental impacts.

**ALTERNATE OPTIONS**

24. The options are:
- Council can elect to accept the recommended tender;
  - Council can elect to award an alternative tender; or
  - Not approve any tender.

**CONCLUSION**

25. It is recommended, based on the evaluation scoring, clarification and financial check processes that the tender is awarded to Tenderer A.

Consulted References	:	<ul style="list-style-type: none"> <li>• Local Government Act 1995</li> <li>• Local Government (Functions and General) Regulations 1996</li> <li>• Council Policy: Purchasing Policy (Tenders and Quotes)               <ul style="list-style-type: none"> <li>○ Tender/Contract Procedure</li> <li>○ Evaluation Procedure (Tenders and Quotations)</li> </ul> </li> <li>• Council Policy: City of Albany Buy Local Policy (Regional Price Preference)</li> </ul>
File Number (Name of Ward)	:	CP.DEC.40
Previous Reference	:	N/A

**DIS236: PLANNING AND BUILDING REPORTS SEPTEMBER 2020**

**Proponent / Owner** : City of Albany.  
**Attachments** : Planning and Building Reports September 2020  
**Report Prepared By** : Business Support Officer – J Cobbold  
**Responsible Officers:** : Manager Planning and Land Information Services  
(J Van Der Mescht)

**RECOMMENDATION**

**DIS236: RESPONSIBLE OFFICER RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council NOTE the Planning and Building Reports for September 2020.**



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