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# MINUTES

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**Ordinary Meeting of Council**

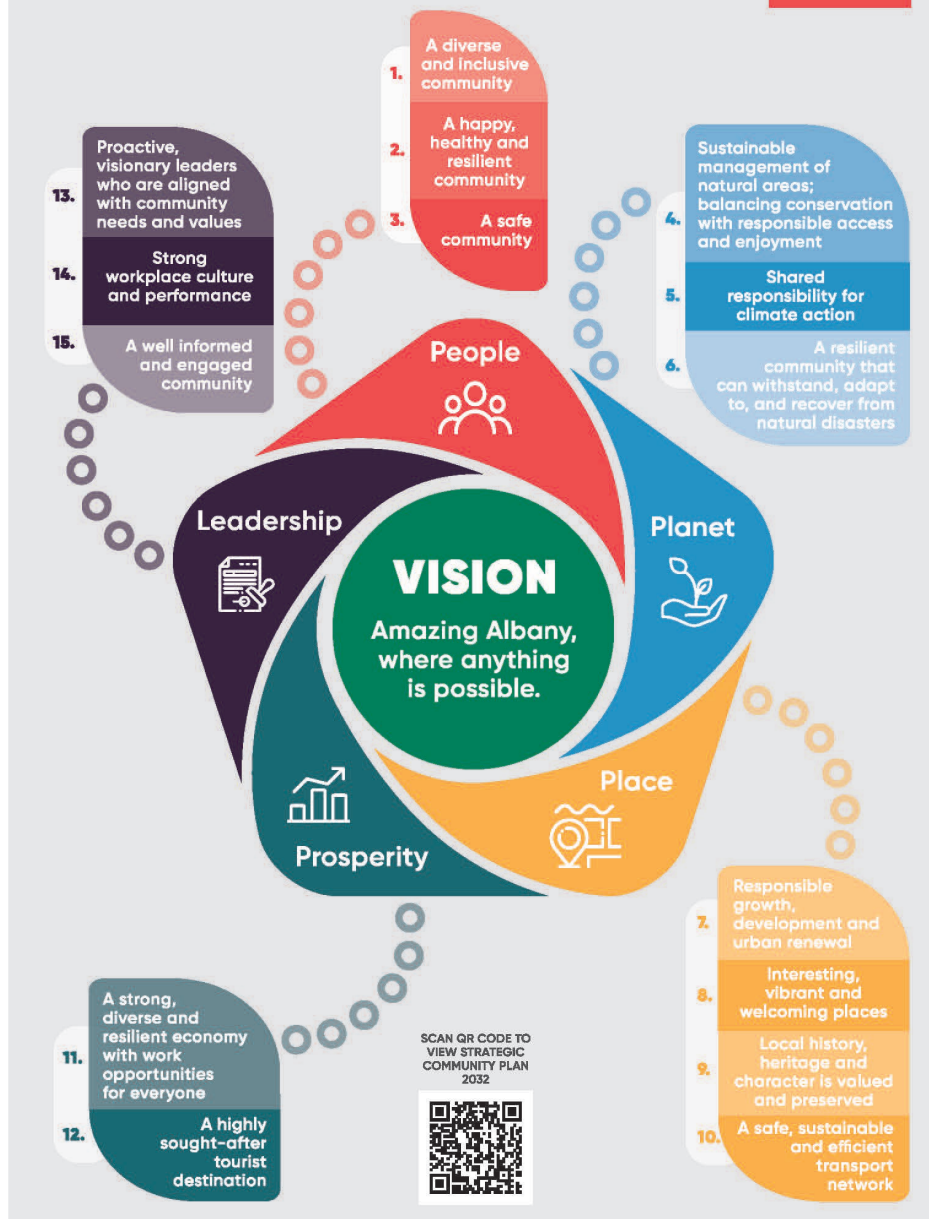
**Tuesday 27 May 2025**

**6.00pm**

**Council Chambers**



## STRATEGIC COMMUNITY PLAN 2032



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## 1. DECLARATION OF OPENING

The Mayor declared the meeting open at 6.00pm.

## 2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LANDOWNERS

*"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

G Stocks

### **Councillors:**

Councillor

L MacLaren

Councillor

A Cruse

Councillor

P Terry (Deputy Mayor)

Councillor

C McKinley

Councillor

S Grimmer

Councillor

R Sutton

Councillor

M Traill

Councillor

D Baesjou

Councillor

M Lionetti

Councillor

T Brough

### **Staff:**

Chief Executive Officer

A Sharpe

Executive Director Corporate & Commercial Services

M Gilfellow

Executive Director Infrastructure, Development  
& Environment

P Camins

Executive Director Community Services

N Watson

Meeting Secretary

J Williamson

**Apologies/Leave of Absence:** Nil

There were 47 members of the public and two media representatives in attendance.

#### 4. DISCLOSURES OF INTEREST

Name	Report Item Number	Nature of Interest
Councillor McKinley	CCS709	<b>Impartiality.</b> The nature of the interest being that Councillor McKinley's family members have an onsite caravan at the subject site. Councillor McKinley remained in the Chamber and participated in the discussion and vote for this item.
Councillor Grimmer	DIS439	<b>Impartiality.</b> The nature of the interest being that Councillor Grimmer is a member of a community group that opposed the original application. Councillor Grimmer remained in the Chamber and participated in the discussion and vote for this item.
Councillor MacLaren	DIS439	<b>Impartiality.</b> The nature of the interest being that Councillor MacLaren is a member of a community group that opposed the original application. Councillor MacLaren remained in the Chamber and participated in the discussion and vote for this item.
Chief Executive Officer Mr Andrew Sharpe	PR016	<b>Impartiality.</b> The nature of the interest being that this item relates to the appointment of an independent facilitator to conduct the CEO Performance Review. Mr Sharpe remained in the Chamber and was present during the discussion and vote for this item.

#### 5. REPORTS OF MEMBERS

##### 6.02PM Councillor Sutton

##### Summary of key points:

Councillor Sutton attended the second round of the WA MX and ATV State Championship series at the Albany Motorsport Park. Councillor Sutton said that he had received very positive feedback on the track and facilities of the Albany Motorsport Park.

Councillor Sutton also attended the official opening of the Albany Surf Life Saving Club after recent renovations and represented the Mayor at an All Abilities Football event.

##### 6.05pm Councillor Traill

##### Summary of key points:

Councillor Traill attended the official opening of the Albany Surf Life Saving Club and commented on the WA Tourism Conference happening in Fremantle. Councillor Traill congratulated Albany Visitor Centre employee Kirstie Cooper who has been named as a finalist in the Sir David Brand Young Achiever Award.

Councillor Traill congratulated Mr Kevin Theyer who was awarded the 2025 Mike Stidwell Medal in recognition of his decades-long contribution to speedway racing in Australia.

**6.09pm Councillor Baesjou**

**Summary of key points:**

Councillor Baesjou attended the Anzac Commemorations, the official opening of the Albany Surf Life Saving Club, the Skywhales Across Australia event and the ACCI Sundowner at Clarence Estate.

Councillor Baesjou also attended the afternoon tea recognising the long-term service of City of Albany employees who have been with the City for 10 or more years.

**6.13pm Councillor Grimmer**

**Summary of key points:**

Councillor Grimmer attended the following events:

- Anzac Dawn Service at Bornholm.
- Briefing from WAPOL Superintendent.
- Afternoon tea recognising long-term service of City of Albany employees.
- Interview with Community Radio on becoming an elected member.

**6.15pm Councillor Brough**

**Summary of key points:**

Councillor Brough addressed Council regarding homelessness in our community and said that whilst there are no easy solutions it is up to everyone as individuals to do what they can to assist the most vulnerable members of our community.

**6.17pm Councillor McKinley**

**Summary of key points:**

Councillor McKinley attended the Anzac commemorations and asked that the men and women who sacrificed their lives be always remembered and honoured. Councillor McKinley then played the National Anthem.

**6.19pm Deputy Mayor Terry**

**Summary of key points:**

Deputy Mayor Terry attended the ACCI Leadership Forum, the official opening of Wauters Building Company new offices and the US Submariners Service. Deputy Mayor Terry said that he found the Tolling of the Bell for each submarine lost in the service of their country particularly moving.

Deputy Mayor Terry said that the City was continuing to deliver projects to improve liveability, including the Albany Surf Reef.

**6.23pm Councillor Cruse**

**Summary of key points:**

Councillor Cruse said that she was very happy to be attending this meeting in person and provided an update on her husband's recovery from a prolonged illness. Councillor Cruse said that with an improvement in Tim's condition she was looking forward to being able to participate more fully in her role on Council.

**6.26pm Councillor MacLaren**  
**Summary of key points:**

Councillor MacLaren provided the following list of engagements she attended:

- Anzac Day Dawn Service at the Desert Mounted Corp Memorial
- Commemorative Service at Peace Park
- Southdown Magnetite Mine and Transshipping Community Information Session
- Citizenship Ceremony
- Candlelight Vigil for International Day to Remember Victims of Family and Domestic Violence
- Community Meeting at Youngs Hall to listen to residents concerns about the Nullaki Lime Pit operations
- Opening of the Taste Great Southern Smoking Ceremony at Kings Square and function at the Earl of Spencer
- Two events Taste Great Southern
  - met regional and state leaders in food and wine tourism
  - Maitraya - Tides of Taste
  - Karribank – Taste Porungurup
- ACCI Leadership Forum
  - Kristen Pyrs Brown – CoA Manager of Economic Development and Commercial Services
  - Jo Talmage – Skylar Early Learning Centre
- Afternoon tea in recognition of the City's long-serving employees
- Homelessness Focus Group
  - Promote Sausage sizzle fundraiser at Bunnings on 21 June
- Official Opening of the Albany Surf Club on 15 May
- Watched the Skywhales from Barmup Rock
- Barmup Bushcarers – supported by City of Albany reserves team
- Local Biodiversity Strategy Steering Committee Meeting
- Classical Winds II – Albany Wind Ensemble (spotted CoA staffer Kylie in the horn section)
- Albany Sinfonia - 30 Year Anniversary Concert Rhapsody in Time
- BirdTalks by local Birdlife Group – Threats and Solutions
- Launch of Nilla Spark's book, Kneading Hope: Lessons from the Kitchen of Life

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

**7. PUBLIC QUESTION TIME**

**Conduct of Persons at Meetings:** Members of the public attending meetings must be respectful of the Presiding Member, Council and City Officers to ensure the meeting runs efficiently.

**Prevention of Disturbance:**

- Members of the public are admitted to meetings with the understanding that no expressions of dissent, approval, conversations or other interruptions will take place during proceedings.
- Attendees must:
  - Refrain from interrupting the meeting through approval, dissent or conversation.
  - Conduct themselves appropriately and follow directions if asked to leave.
  - Avoid obstructing access to the meeting or causing disturbances.

**Public Question Time.** In accordance with clause 4.2 (Procedures for public question time) and clause 8.3 (Where this local law does not apply or is silent) of the *City of Albany Standing Orders Local Law 2014 (as amended)*:

- Public Question Time is limited to 30 minutes, extendable at the discretion of the Presiding Member.
- The Presiding Member may decline to respond to a question if:
  - The same or a similar question was asked at a previous meeting.
  - The question or statement is offensive, unlawful or defamatory. The Presiding Member may request that it be rephrased to ensure that it is appropriate.

**Contents of Minutes** As per the *Local Government (Administration) Regulations 1996*, regulation 11:

- The minutes of the meeting will include a summary of questions raised during Public Question Time and a summary of any response provided.

**Documents Tabled at Meetings.** Documents tabled during Public Question Time or Reports of Members will not be included in the minutes. The minutes will note who tabled the document and will provide a document reference number.

**6.31PM David Slade, WA Farmers Federation Representative**

**Summary of key points:**

Mr Slade spoke against the Committee Recommendation for Report Item DIS439: Amendment of Conditions-P2160670 Industry-Extractive (Lime) at Lot 9005 Eden Road, Nullaki.

**6.34PM Mark Adams**

**Summary of key points:**

Mr Adams spoke against the Committee Recommendation for Report Item DIS439: Amendment of Conditions-P2160670 Industry-Extractive (Lime) at Lot 9005 Eden Road, Nullaki.

**6.38PM Don Phillips**

**Summary of key points:**

Mr Phillips spoke against the Committee recommendation for Report Item CCS709: Surrender and New Replacement Lease Final Approval-Rose Gardens Beachside Holiday Park-Portion of Reserve 22698 Emu Point.

**6.40PM Pippa Minchin**

**Summary of key points:**

Ms Minchin spoke against the Committee recommendation for Report Item CCS709: Surrender and New Replacement Lease Final Approval-Rose Gardens Beachside Holiday Park-Portion of Reserve 22698 Emu Point.

**6.44PM: Robyn Bollard**

**Summary of key points:**

Ms Bollard spoke against the Committee recommendation for Report Item CCS709: Surrender and New Replacement Lease Final Approval-Rose Gardens Beachside Holiday Park-Portion of Reserve 22698 Emu Point.

**6.48PM: Aard Brink**

**Summary of key points:**

Mr Brink spoke in support of the Committee Recommendation for Report Item DIS439: Amendment of Conditions-P2160670 Industry-Extractive (Lime) at Lot 9005 Eden Road, Nullaki.

**6.52PM Sandie Smith**

**Summary of key points:**

Ms Smith addressed Council regarding Report Item CCS709: Surrender and New Replacement Lease Final Approval-Rose Gardens Beachside Holiday Park-Portion of Reserve 22698 Emu Point.

**6.54PM David McIntosh**

**Summary of key points:**

Mr McIntosh spoke against the Committee Recommendation for Report Item DIS439: Amendment of Conditions-P2160670 Industry-Extractive (Lime) at Lot 9005 Eden Road, Nullaki.

**6.58PM Kate Parker**

**Summary of key points:**

Ms Parker spoke against the Committee recommendation for Report Item CCS709: Surrender and New Replacement Lease Final Approval-Rose Gardens Beachside Holiday Park-Portion of Reserve 22698 Emu Point.



**7.00PM: Michael Pemberton**

**Summary of key points:**

Mr Pemberton addressed Council regarding Report Item CCS709: Surrender and New Replacement Lease Final Approval-Rose Gardens Beachside Holiday Park-Portion of Reserve 22698 Emu Point and Report Item DIS439: Amendment of Conditions-P2160670 Industry-Extractive (Lime) at Lot 9005 Eden Road, Nullaki.

**7.05PM:** The Mayor read a question received from Philip Harding who was not present at the meeting. The following question was taken on notice:

*"The Bitumen track at the Albany Motorsport Park is under construction. It is advertised that this track will be used for non-race events and driver training. Drifting is a motorsport activity whereby vehicles are driven at speed around bends whilst spinning the wheels in a controlled slide. Drifting emits significant noise and smoke emissions. Many WA driver training businesses, such as Driver Risk Management, advertise a 'Drifting Experience' or 'Hot Laps' in their commercial offering. Will this track be used for Drifting or Hot Laps or similar?"*

This question was taken on notice and the following response is now provided:

**Response**

*Once fully developed the Albany Motorsport Park (AMP) will comprise a ~3.3km sealed, configurable, multi-use circuit designed to accommodate motor car racing, motorcycle racing, drifting, driver training and cycling. The facility is:*

- Designed in accordance with the Motorsport Australia Track Operator's Safety Guide and Motorcycling Australia (MA) Track Guidelines; and*
- Intended to be licensed by Motorsport Australia for Fédération Internationale de l'Automobile (FIA) Grade 2 and Fédération Internationale de Motocyclisme (FIM) Grade B, enabling up to second-tier international motor racing.*

*Stage 1B, currently under construction, consists of a 1km northern circuit which will feature a 12-metre-wide sealed track with deceleration run-offs. It will not include race kerbing, barriers or the final surface seal. As a result, it will be limited to Motorsport Category C activities (i.e. non-race speed events), driver training and cycling.*

*Due to these limitations, AMV Inc. is not yet certain whether drifting will be feasible on Stage 1B. AMV Inc. confirms that any such use would be subject to:*

- Assessment against the approved management plans including noise emission thresholds and operational controls;*
- Consultation with the City of Albany and relevant regulatory authorities including the Department of Water and Environmental Regulation (DWER) where applicable; and*
- Community engagement, particularly in cases where the proposed activities may differ materially from those currently approved or anticipated.*

*AMV remains committed to ensuring that all activities at AMP are managed responsibly and transparently.*

*Synergy Reference EF25343724 GO.COM.3*

There being no further speakers the Mayor declared Public Question Time closed at **7.06PM**.

8. APPLICATIONS FOR LEAVE OF ABSENCE Nil

9. PETITIONS AND DEPUTATIONS Nil

10. CONFIRMATION OF MINUTES

**RESOLUTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR TRAILL**

**SECONDED: DEPUTY MAYOR TERRY**

**THAT the minutes of the Ordinary Council Meeting held on Tuesday 22 April 2025, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**CARRIED 11-0**

11. PRESENTATIONS Nil

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS Nil

## CCS709: SURRENDER AND NEW REPLACEMENT LEASE FINAL APPROVAL – ROSE GARDENS BEACHSIDE HOLIDAY PARK – PORTION OF RESERVE 22698 EMU POINT

<b>Land Description</b>	: Portion of Crown Reserve 22698, Lot 1461 on Deposited Plan 219777, the subject of Certificate of Title LR3110 Folio 171, Emu Point
<b>Proponent</b>	: <ul style="list-style-type: none"><li>• RAC Tourism Assets Pty Ltd (ACN 168 253 085)<ul style="list-style-type: none"><li>○ Robert Slocombe (Director)</li><li>○ Mark Weller (Director)</li><li>○ Geoff Mather (Director &amp; Company Secretary)</li></ul></li><li>• Redwood Corporate Pty Ltd (ACN 094 601 788)<ul style="list-style-type: none"><li>○ Iykerathera Jacob Chacko (Director)</li><li>○ Sally Ann Chacko (Director)</li></ul></li></ul>
<b>Business Entity Name</b>	: Rose Gardens Beachside Holiday Park
<b>Attachments</b>	: Schedule of Submissions - Attachment
<b>Owner</b>	: Crown (City of Albany under Management Order)
<b>Report Prepared By</b>	: Team Leader Property and Leasing
<b>Authorising Officer:</b>	: Executive Director Corporate & Commercial Services

Councillor McKinley declared an Impartiality Interest in this item. Councillor McKinley remained in the Chamber and participated in the discussion and vote for this item.

### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
  - **Pillar:** Prosperity – A thriving city with an abundance of opportunities.
  - **Outcomes:** A highly sought-after tourist destination.

### Maps and Diagrams:



**In Brief:**

- Council, at its meeting on 22 October 2024 supported a surrender of current lease with Redwood Corporate Pty Ltd (Redwood) for Rose Gardens Beachside Holiday Park (Rose Gardens) and a new replacement lease to RAC Tourism Assets Pty Ltd (RAC).
- The proposed new replacement lease was advertised for public comment for two weeks closing on 27 March 2025. A total of 19 submissions were received, all raising similar concerns and objections to the new lease proposal.
- Council is requested to grant final approval of surrender of current lease to Redwood and a new replacement lease to RAC.

**CCS709: ADDENDUM**

Council requested staff provide clarification on the situation of long stay tenants due to the requirement for vacant possession under the sales agreement between Redwood Corporate Pty Ltd (Redwood) and RAC Tourism Assets Pty Ltd (RAC).

This addendum summarises the outcomes of a meeting held on 1 May 2025 between the City, Redwood and RAC, along with follow up information provided to the City.

**Key Points:**

- **Tenants:** 21 of 24 sites are currently occupied for permanent living under periodic agreements. The remaining 3 sites are not used for permanent living. Of the 21:
  - 10 do not require relocation (6 have requested demolition by RAC; 4 plan to relocate themselves).
  - 11 are still considering their options.
- **Relocation Costs:** Redwood is obtaining quotes for relocation that may assist the tenants to obtain the best price for relocating. A house transport business has estimated it will cost around \$25,000 to move each dwelling, depending on size and inspection.
- **Relocation Options:** To assist residents, City staff have contacted other parks in the Albany region to explore possible relocation opportunities. These discussions are continuing.
- **Ex-Gratia Payments:** RAC has agreed to remove dwellings left onsite as part of the development. This will not affect any ex-gratia payments by RAC and would require an agreement to be in place between RAC and the tenant.
- **Timeline:** The deadline to achieve vacant possession has been extended to 31 January 2026.

**RECOMMENDATION**

**CCS709: RESOLUTION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SUTTON  
SECONDED: COUNCILLOR MCKINLEY**

**THAT Council GRANTS the final approval for the surrender of current lease to Redwood Corporate Pty Ltd and the new replacement lease to RAC Tourism Assets Pty Ltd over portion of Crown Reserve 22698 Emu Point, consistent with the previous resolution of 22 October 2024, and as detailed in paragraph 17 of this report. This decision considers all submissions received during the advertising period.**

**CARRIED 11-0**

**CCS709: RESOLUTION (PROCEDURAL MOTION BY COUNCILLOR SUTTON)**

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

**THAT this item be deferred and be re-presented for consideration by Council at the Ordinary Council Meeting to be held on Tuesday 27 May 2025.**

**CARRIED 9-0**

[Councillor Sutton then moved a Procedural Motion that consideration of this report be deferred until the May 2025 Ordinary Council Meeting.](#)

**CCS709: AMENDMENT BY COUNCILLOR MACLAREN**

**MOVED: COUNCILLOR MACLAREN  
SECONDED: COUNCILLOR GRIMMER**

**THAT the Committee Recommendation be AMENDED to include the following points:**

**THAT Council:**

1. **ACKNOWLEDGES** that the 19 submissions received identify serious social impacts of the eviction of long stay tenants from the Rose Gardens Caravan Park.
2. **COMMITTS** to advocating for residents displaced by the replacement lease to secure alternative accommodation in the region before the park closes to prevent these vulnerable residents from experiencing homelessness.
3. **REQUESTS** that the City **ADVOCATE** to organisations, including RAC Tourism Assets Pty Ltd and Redwood Corporate Pty Ltd, for:
  - placements in other caravan parks, including fast-tracking new lots if needed
  - fair compensation for residents who are to be evicted, and
  - financial assistance to assist residents to relocate.
4. **REQUESTS THAT** RAC Tourism Assets Pty Ltd and Redwood Corporate Pty Ltd assist individuals to relocate in the following ways:
  - In the case where they cannot move their home, to pay fair compensation.
  - In the case where they can relocate, to cover the costs of relocation.
5. **NOTES** that the City has no control over the commercial sale transaction beyond the legislated process for considering the request to surrender the current lease and approve a replacement lease to RAC.

Councillor MacLaren then moved an amendment to the Committee Recommendation.

CCS709: AUTHORISING OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: DEPUTY MAYOR TERRY  
SECONDED: COUNCILLOR TRAILL

THAT Council GRANTS the final approval for the surrender of current lease to Redwood Corporate Pty Ltd and the new replacement lease to RAC Tourism Assets Pty Ltd over portion of Crown Reserve 22698 Emu Point, consistent with the previous resolution of 22 October 2024, and as detailed in section 15 of this report. This decision considers all submissions received during the advertising period.

CCS709: COMMITTEE RECOMMENDATION

MOVED: MAYOR STOCKS  
SECONDED: DEPUTY MAYOR TERRY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 5-2

**Record of Vote**

Against the Motion: Councillors Sutton and MacLaren

CCS709: AUTHORISING OFFICER RECOMMENDATION

THAT Council GRANTS the final approval for the surrender of current lease to Redwood Corporate Pty Ltd and the new replacement lease to RAC Tourism Assets Pty Ltd over portion of Crown Reserve 22698 Emu Point, consistent with the previous resolution of 22 October 2024, and as detailed in section 15 of this report. This decision considers all submissions received during the advertising period.

**BACKGROUND**

2. At the Ordinary Council Meeting held 22 April 2025, the following Addendum was provided to present information that was received after the CCS Committee Meeting held on 8 April 2025.

*Following the preparation of the original report, some information within the sale agreement, to which the City is not a party, has now been made public. In particular, details relating to the requirement for vacant possession and the offer of ex-gratia payments to eligible long-stay tenants have been made publicly available by Redwood through communications to the tenants.*

3. In addition, changes to the body of the original report presented to the April OCM were made and highlighted in red. A copy of that previous report has been distributed to Elected Members.
4. Crown Reserve 22698 is under Management Order issued to the City for the purpose of 'Recreation and Associated Business Purposes' with power to lease for any term not exceeding 50 years, subject to Minister for Lands approval.
5. In March 2024, the City was informed of the potential sale and purchase of Rose Gardens by RAC.

6. RAC has requested a new lease for a term of 21 years with an option for an additional 21 years.
7. The City referred this proposal to the Department of Planning, Lands and Heritage (DPLH) which supports the surrender of the current lease and new replacement lease directly between the City and RAC.
8. In March 2025, the City was made aware the current park owner Redwood and RAC have now entered into a private and confidential sale agreement for the purchase of Rose Gardens.
9. Following Council's endorsement to the proposal on 22 October 2024 and confirmation of the executed sale agreement, the lease to RAC was advertised for public comment for two weeks inviting submissions, closing on 27 March 2025.
10. A total of 19 submissions were received during the public consultation period. All raising similar concerns and objections to the new lease proposal. Key concerns raised include the limited communication from the current park operator, the stress and uncertainty with vacant possession, financial hardship and limited relocation and accommodation options. A schedule of submissions received is provided in the Attachment.
11. On 30 March 2025 the current park owner, Redwood, sent a letter to all long stay tenants advising them of the proposed sale of the park to RAC subject to certain conditions precedent being met. Some previous confidential information about the sale and its conditions were released.
12. Tenants were informed that the sale is subject to vacant possession of the park. Once conditions are satisfied, tenants will be provided termination notices as required by the *Residential Parks (Long-stay Tenants) Act 2006 (WA)* giving at least 180 days notice to vacate their site. These notices may be issued towards the end of April 2025, depending on when the conditions are met.
13. The Residential Parks (Long-stay Tenants) Act 2006 (WA) and Regulations 2007 govern the rights and responsibilities of both long-stay tenants and park operators. These laws provide clear guidelines and aim to ensure a fair process if any changes affect the tenants.
14. The letter also confirmed that RAC will make without prejudice ex-gratia payments to all eligible long stay tenants to assist with relocation as follows:
  - \$5,000 for small caravan with annexe
  - \$10,000 for large caravan with annexe and other fixtures
  - \$15,000 for relocatable or demountable park homes
15. In addition, Redwood will make a further without prejudice ex-gratia payment of up to \$10,000 to each eligible long-stay tenants, with a minimum payment of \$5,000.
16. These payments are intended to help tenants relocate and to provide financial support where caravans and park homes cannot be relocated.



17. The table below outlines the key terms of the proposed surrender of the existing lease and new replacement lease:

<b>Surrender of Lease</b>	<b>Details</b>
Tenant	Redwood Corporate Pty Ltd
Land Description	Portion of Crown Reserve 22698, Lot 1461 on Deposited Plan 219777, the subject of Certificate of Title LR3110 Folio 171, Emu Point
Special Condition	Surrender of lease will be contingent on certain conditions being met in the sale agreement It will become effective on the commencement of a new lease to RAC
<b>New Lease</b>	<b>Details</b>
Tenant	RAC Tourism Assets Pty Ltd (RAC)
Land Description	Portion of Crown Reserve 22698, Lot 1461 on Deposited Plan 219777, the subject of Certificate of Title LR3110 Folio 171, Emu Point
Land Ownership	Crown (City of Albany under Management Order)
Lease Area	Approx 4.83ha subject to survey
Permitted Use	Holiday Park which may include a caravan park, chalets, camping and related ancillary uses subject to the approval of the Landlord, in accordance with and limited by the Management Order over the land
Rent	Initial rent \$115,000 per annum plus GST. Rent reviews every three years by market valuation with CPI applied for intervening years
Term of Lease	21 years from commencement date with an option for an additional 21 years
Outgoings	Tenant responsible for all outgoings, including insurance and utilities
Maintenance	Tenant responsible for all maintenance
Minister for Lands	Section 18 of the <i>Lands Administration Act 1997</i> , the Minister for Lands consent being obtained
Special Conditions	<ul style="list-style-type: none"> <li>Inclusion of coastal hazard provisions noting the site has protection from an existing rock revetment wall</li> <li>Tenant development works to commence in 2026 and completed within 5 years</li> </ul>

18. Redwood and RAC have agreed in-principle with the above terms, subject to Council and Minister for Lands approval.

## DISCUSSION

19. The City acknowledges that the requirement for long-stay tenants to relocate will be a stressful time with a range of potential social impacts. These may include disruption to living arrangements, financial hardship, limited availability of affordable housing and stress and uncertainty.
20. Although financial assistance is being offered, the process of relocation can be a challenging and difficult process, particularly for vulnerable tenants.
21. It is important that Council remains aware of these potential impacts. City officers will explore opportunities to support affected tenants, including advocating for access to available housing support services and will engage with other park operators regarding potential relocation options, where possible.
22. The current lease for Rose Gardens held by Redwood expires in February 2041, with 16 years remaining.
23. RAC plans to make a substantial investment in upgrading the park, given the current condition of the property and its aging infrastructure.



24. The upgrade aims to improve the parks facilities, improve the visitor experience, support local tourism, and maintain the reserve.
25. The comments and impacts raised in the submissions received have been carefully considered and weighed alongside the potential investment and long-term benefits to the community of securing the future of the site through the proposed lease.

#### GOVERNMENT & PUBLIC CONSULTATION

26. Section 18 of the Land Administration Act 1997 provides that interests in Crown land cannot be assigned, transferred or otherwise dealt with without the prior written approval of the Minister for Lands.
27. DPLH has provided support for the surrender and new lease, pending final approval from the Minister for Lands.
28. Section 3.58 of the Local Government Act 1995 governs property disposal, including leases.
29. The Act requires the following:
  - a. A local government must give local public notice of the proposed lease inviting submissions for a period of two weeks.
  - b. Council must consider any submissions and record their decisions in the minutes.
  - c. A local government can then proceed with the lease.
30. The proposed new replacement lease was advertised for two weeks inviting submissions, closing on 27 March 2025.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Advertising of new replacement lease in the local newspaper and City's website inviting submissions from the public	A two-week period of advertising closed on 27 March 2025	19 submissions were received, as result of advertising	Section 3.58 of the Local Government Act 1995

31. A total of 19 submissions were received. They have been acknowledged, indicating that a further item will be presented to the April Council meeting.

#### STATUTORY IMPLICATIONS

32. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including both leased and licensed land and buildings.
33. Section 18 of the *Land Administration Act 1997* requires Ministerial approval for any dealings with interests in Crown land, including lease agreements.
34. The proposed surrender and new replacement lease complies with the statutory requirements for property disposal and interests in Crown land.

#### POLICY IMPLICATIONS

35. The Property Management (Leases and Licences) Policy supports equitable access and efficient management of City owned and managed properties in line with statutory procedures.
36. The recommendation is consistent with the Policy.

**RISK IDENTIFICATION & MITIGATION**

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

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<b>Reputation:</b> Surrender and new lease not approved.	Possible	Moderate	Medium	Negotiate terms that satisfy both Council and tenant.
<b>Reputation and Financial:</b> Surrender and new lease not approved – reduced investment.	Possible	Moderate	Medium	Negotiate satisfactory terms to ensure term supports the investment.
<b>Reputation and Financial:</b> Development not undertaken or completed.	Possible	Moderate	Medium	Clause in lease to ensure development undertaken and completed within agreed timelines.
<b>Reputation and Social Impact:</b> Tenants given notice to vacate their tenancy	Likely	Major	High	Explore accommodation options and provide information on available support services.
<b>Reputation:</b> Surrender and new lease not approved – tourism impact to area.	Possible	Moderate	Medium	Negotiate satisfactory terms.
<b>Legal:</b> New lease not approved – potential legal challenge or claim from Redwood & RAC	Possible	Major	High	Ensure all statutory processes are followed and reasons for Council decision clearly documented.
<b>Opportunity:</b> To upgrade park facilities, improve the visitor experience and positively impact local tourism.				
<b>Opportunity:</b> Aligns with City's Strategic Community Plan 2032 objective to create a competitive and sustainable tourism offer.				

**FINANCIAL IMPLICATIONS**

38. All costs for surrender and new replacement lease will be covered by the tenant.
39. The initial lease rental, determined by a current market valuation provided by a licensed Valuer, is \$115,000 per annum plus GST.

**LEGAL IMPLICATIONS**

40. The lease documentation will be prepared by City's lawyers to ensure enforceable terms to minimise risks to the City and Minister for Lands.

**ENVIRONMENTAL CONSIDERATIONS**

41. The lease area is located within the Coastal Hazard Risk Management Adaptation Plan (CHRMAP) area for Emu Point to Middleton Beach.
42. The new replacement lease will include coastal hazard provisions, requiring the tenant to acknowledge and accept risks related to coastal erosion and/or inundation, sea level rises and other coastal processes. Noting the area is currently protected by a rock revetment wall.
43. Further indemnification clauses will be included to ensure that the City and Minister for Lands are not liable for any loss or damage resulting from coastal hazards.
44. Any future development must align with the Emu Point to Middleton Beach CHRMAP and Oyster Harbour Foreshore Management Plan recommendations.

## ALTERNATE OPTIONS

45. Council may:
  - a. Approve the surrender and new lease to RAC; or
  - b. Support selected elements of the new lease; or
  - c. Decline the surrender and new lease request.
46. Should Council decline the surrender and new replacement lease the existing lease with the current tenant will continue until expiry in 2041.
47. Should Council decline the surrender and new replacement lease the opportunity to upgrade the park, boost to local tourism and alignment with strategic goals could be missed.

## CONCLUSION

48. RAC and current tenant Redwood have finalised the sale and purchase agreement for Rose Gardens, subject to certain conditions precedents being met.
49. The new replacement lease will be for a term of 21 years with an option for an additional 21 years. The initial rent will be \$115,000 per annum plus GST as determined by current market valuation provided by a licensed Valuer as per City's Property Management (Leases and Licences) Policy.
50. Council previously supported the proposed surrender and new replacement lease at its meeting on 22 October 2024.
51. A total of 19 submissions were received during the public comment period, all raising similar concerns and objections to the new lease proposal. Key concerns raised include the limited communication from the current park operator, the stress and uncertainty with vacant possession, financial hardship and limited relocation and accommodation options.
52. RAC and Redwood have committed to providing without prejudice ex-gratia payments to eligible tenants to assist with relocation costs and extend the deadline for vacant possession to 31 January 2026.
53. RAC have committed to removing dwellings left onsite as part of their development. This will not affect ex-gratia payments by RAC.
54. The City recognises the impact that relocation will have on tenants and is committed to advocating for access to housing support services and to explore options with other parks for possible tenant relocation opportunities.
55. After a careful and thorough consideration of the submissions, it is recommended that Council grants final approval for the surrender of existing lease to Redwood and new replacement lease to RAC.

<b>Consulted References</b>	:	<ul style="list-style-type: none"><li>• Property Management (Lease and Licences) Policy</li><li>• <i>Local Government Act 1995</i></li><li>• <i>Land Administration Act 1997</i></li><li>• <i>Residential Parks (Long-stay Tenants) Act 2006</i></li></ul>
<b>File Number (Name of Ward)</b>	:	PRO085 & PRO486, A152938
<b>Previous Reference</b>	:	OCM 22/10/2024 Item 671 OCM

**CCS710: MONTHLY FINANCIAL REPORT – MARCH 2025**

**Proponent / Owner** : City of Albany  
**Attachments** : Monthly Financial Report – March 2025  
**Report Prepared By** : Manager Finance  
**Authorising Officer:** : Executive Director Corporate & Commercial Services

**STRATEGIC IMPLICATIONS**

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

**IN BRIEF**

- Under the Local Government Financial Management Regulations, a local government is to prepare monthly a statement of financial activity and statement of financial position that is presented to Council.
- The City of Albany's Monthly Financial Report (inclusive of the statement of financial activity and the statement of financial position) for the period ending 31 March 2025 has been prepared and is attached.
- In addition, the City provides Council with a monthly investment summary to ensure the investment portfolio complies with the City's Investment of Surplus Funds Policy.
- The financial information included within the Monthly Financial Report for the period ended 31 March 2025 is preliminary and has not yet been audited.

**RECOMMENDATION**

**CCS710: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**  
**T**  
**MOVED: COUNCILLOR TRAILL**  
**SECONDED: COUNCILLOR SUTTON**

**THAT the Monthly Financial Report for the period ending 31 March 2025 be RECEIVED.**

**CARRIED 11-0**

**CCS710: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR MACLAREN**  
**SECONDED: COUNCILLOR MCKINLEY**

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

**CARRIED 8-0**

**CCS710: AUTHORISING OFFICER RECOMMENDATION**

**THAT the Monthly Financial Report for the period ending 31 March 2025 be RECEIVED.**

## **DISCUSSION**

2. To fulfil statutory reporting obligations, the Monthly Financial Report prepared provides a snapshot of the City's year to date financial performance. The report provides the:
  - (a) Statement of Financial Activity by nature classifications (satisfying Regulation 34 of the *Local Government (Financial Management) Regulations 1996*);
  - (b) Statement of Financial Position (satisfying Regulation 35 of the *Local Government (Financial Management) Regulations 1996*);
  - (c) Basis of Preparation;
  - (d) Explanation of material variances to year-to-date budget;
  - (e) Net Current Asset & Funding Position;
  - (f) Investment Portfolio Snapshot;
  - (g) Receivables; and
  - (h) Capital Acquisitions.
3. Additionally, each year a local government is to adopt a percentage or value to be used in the Statement of Financial Activity for reporting material variances. Under Council item CCS647, Council approved that a variance between actual and budget-to-date of greater than \$100,000 is a material variance for reporting purposes in the Statement of Financial Activity for 2024/2025.
4. The Statement of Financial Activity and Statement of Financial Position may be subject to year-end adjustments and have not been audited.
5. It is noted that rounding errors may occur when whole numbers are used, as they are in the reports that follow. The 'errors' may be \$1 or \$2 when adding sets of numbers. This does not mean that the underlying figures are incorrect."

## **STATUTORY IMPLICATIONS**

6. The *Local Government (Financial Management) Regulations 1996* stipulate that each month Local Governments are required to prepare and report a Financial Activity Statement (reg 34) and a Financial Position Statement (reg 35).
7. Each of these statements are to be presented at an ordinary meeting of the council within two months after the end of the relevant month, as well as recorded in the minutes of the meeting at which it is presented.

## **POLICY IMPLICATIONS**

8. The City's 2024/25 Annual Budget provides a set of parameters that guides the City's financial practices.
9. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

## **FINANCIAL IMPLICATIONS**

10. Expenditure for the period ending 31 March 2025 has been incurred in accordance with the 2024/25 budget parameters.
11. Details of any budget variation more than \$100,000 (year to date) is outlined in the Statement of Financial Activity. There are no other known events, which may result in a material non-recoverable financial loss or financial loss arising from an uninsured event.

**LEGAL IMPLICATIONS**

12. Nil.

**ENVIRONMENTAL CONSIDERATIONS**

13. Nil.

**ALTERNATE OPTIONS**

14. Nil.

**CONCLUSION**

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

<b>Consulted References</b>	:	<i>Local Government (Financial Management) Regulations 1996</i>
<b>File Number</b>	:	FM.FIR.7

**CCS711: LIST OF ACCOUNTS FOR PAYMENT – APRIL 2025**

**Business Entity Name** : City of Albany  
**Attachments** : List of Accounts for Payment  
**Report Prepared By** : Manager Finance  
**Authorising Officer:** : Executive Director Corporate and Commercial Services

**STRATEGIC IMPLICATIONS**

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

**IN BRIEF**

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

**RECOMMENDATION**

**CCS711: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR MACLAREN**  
**SECONDED: COUNCILLOR MCKINLEY**

**THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 April 2025 totalling \$11,132,766.66 be RECEIVED.**

**CARRIED 10-1**

**Record of Vote**

Against the Motion: Councillor Lionetti

**CCS711: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR MACLAREN**  
**SECONDED: COUNCILLOR SUTTON**

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

**CARRIED 8-0**

**CCS711: AUTHORISING OFFICER RECOMMENDATION**

**THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 April 2025 totalling \$11,132,766.66 be RECEIVED.**

**DISCUSSION**

2. The table below summarises the payments drawn from the City's Municipal and Trust funds for the period ending 15 April 2025. Please refer to the Attachment to this report.

Fund	Transaction Type	Amount (\$)	%
Municipal	Electronic Funds Transfer	\$8,944,481.14	80.34%
Municipal	Payroll	\$2,155,242.00	19.36%
Municipal	Credit Cards	\$32,543.52	0.29%
Municipal	Cheques	\$500.00	0.00%
Trust	N/A	\$0.00	0.00%
<b>TOTAL</b>		<b>\$11,132,766.66</b>	<b>100%</b>

3. Included within the Electronic Funds Transfers from the City's Municipal account are Purchasing Card transactions, required to be reported under Regulation 13(A), totalling: \$8,611.46.
4. The table below summaries the total outstanding creditors as at 15 April 2025.

Aged Creditors	Amount (\$)
Current	\$108,601.93
30 Days	\$702,661.96
60 Days	\$281.87
90 Days	-\$797.97
<b>TOTAL</b>	<b><u>\$810,807.79</u></b>

**STATUTORY IMPLICATIONS**

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

**POLICY IMPLICATIONS**

9. Expenditure for the period to 15 April 2025 has been incurred in accordance with the 2024/2025 budget parameters.

**FINANCIAL IMPLICATIONS**

10. Expenditure for the period to 15 April 2025 has been incurred in accordance with the 2024/2025 budget parameters.

**LEGAL IMPLICATIONS**

11. Nil



## ENVIRONMENTAL CONSIDERATIONS

12. Nil

## ALTERNATE OPTIONS

13. Nil

## CONCLUSION

14. That the list of accounts has been authorised for payment under delegated authority.

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

<b>Consulted References</b>	:	<i>Local Government (Financial Management) Regulations 1996</i>
<b>File Number</b>	:	FM.FIR.2

**CCS712: DELEGATED AUTHORITY REPORTS – 16 MARCH 2025 TO 15 APRIL 2025**

**Proponent / Owner** : City of Albany  
**Attachments** : Executed Document and Common Seal Report  
**Report Prepared By** : PA to Mayor and Councillors  
**Authorising Officer:** : Chief Executive Officer

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Pillar:** Leadership.
  - **Outcome:** A well informed and engaged community.

**RECOMMENDATION**

**CCS712: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR BAESJOU**  
**SECONDED: COUNCILLOR TRAILL**

**THAT the Delegated Authority Reports 16 March 2025 to 15 April 2025 be RECEIVED.**

**CARRIED 11-0**

**CCS712: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR BAESJOU**  
**SECONDED: DEPUTY MAYOR TERRY**

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

**CARRIED 8-0**

**CCS712: AUTHORISING OFFICER RECOMMENDATION**

**THAT the Delegated Authority Reports 16 March 2025 to 15 April 2025 be RECEIVED.**

**BACKGROUND**

2. In compliance with Section 9.49A of the *Local Government Act 1995* the attached report applies to the use of the Common Seal and the signing of documents under Council's Delegated Authority:
  - **Delegation: LG1.18 (D006)** – Sign Documents on Behalf of the City of Albany (Authority to Executive Deeds & Agreements and apply the Common Seal)
  - **Delegation: LG4.06 (D009)** – Provide Donations, Sponsorship, Subsidies & Authority to Apply for Grant Funding (Including the provision of sponsorship through the waiver of fees & charges)
  - **Delegation: LG5.05 (D018)** – Award Contracts (Supply of Equipment, Goods, Materials & Services)

**CCS713: ADOPTION OF THE BUDGET REVIEW FOR THE PERIOD  
ENDING 31 MARCH 2025**

**Proponent** : City of Albany  
**Attachments** : Budget Review for the period ending 31 March 2025  
**Report Prepared by** : Business Analyst/Management Accountant  
**Authorising Officer** : Executive Director Corporate & Commercial Services

**STRATEGIC IMPLICATIONS**

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

**In Brief:**

- Local governments are required to conduct a budget review between 1 January and the last day of February each financial year in accordance with regulation 33A of the Local Government (Financial Management) Regulations 1996.
- This review for the period ending 31 March 2025 is in addition to the above requirement, and achieves a Balanced Budget (nil surplus or deficit as at 30 June 2025) inclusive of the proposed Budget Review allocations

**RECOMMENDATION**

**CCS713: RESOLUTION**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: COUNCILLOR GRIMMER**  
**SECONDED: COUNCILLOR MCKINLEY**

**THAT the Budget Review for the period ending 31 March 2025 be ADOPTED.**

**CARRIED 11-0**  
**ABSOLUTE MAJORITY**

**CCS713: COMMITTEE RECOMMENDATION**

**MOVED: DEPUTY MAYOR TERRY**  
**SECONDED: COUNCILLOR MCKINLEY**

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

**CARRIED 8-0**

**CCS713: AUTHORISING OFFICER RECOMMENDATION**

**THAT the Budget Review for the period ending 31 March 2025 be ADOPTED.**

## **BACKGROUND**

2. The Department of Local Government, Sport and Cultural Industries (“DLGSCI”) recommends a review of the budget early in the financial year to amend carry forward projects from forecast to actual. This was completed by the City in September 2024 under agenda item CCS657.
3. Under legislation (regulation 33A(1) of the Local Government (Financial Management) Regulations 1996, Local Governments are required to conduct a budget review between 1 January and the last day of February each financial year. This was completed by the City in February 2025 under agenda item CCS690
4. Council adopted the FY2024/25 budget on 23 July 2024 (CCS647). The total adopted budget expenditure of \$156.3m was comprised of:
  - a. \$59.0m capital works;
  - b. \$1.3m debt reduction; and
  - c. \$96.0m in operating expenditure.
5. The current budget (inclusive of budget amendments already endorsed by Council throughout FY2024/25) has expenditure totalling \$162.5m.
  - a. \$63.6m capital works;
  - b. \$1.5m debt reduction; and
  - c. \$97.4m in operating expenditure.

## **DISCUSSION**

6. Key elements of this proposed budget review include:
  - a. This Review maintains Council's Budget in a Balanced Position as at 30 June 2025.
  - b. A reduction of expenditure of \$0.38m.
  - c. Total expenditure of \$162.08m in FY2024/25, comprised of:
    - i. \$62.91m capital works (reduction of \$0.71m);
    - ii. \$1.46m debt reduction (no change); and
    - iii. \$97.70m in operating expenditure (increase of \$0.33m).
  - d. An decrease in funds required of \$0.38m to complete the proposed amendments, sourced as follows:
    - i. \$0.41m: Increase in Rates and Fees/Charges.
    - ii. \$(0.60)m: Net decrease in Grants/Contributions
    - iii. \$(0.19)m: Reduction in net reserves funding required.
7. A detailed copy of the budget review for the period ending 31 March 2025 is attached.
8. Any budget adjustments thereafter will be brought to Council as an item to be discussed when required and actioned outside of this review.

## **GOVERNMENT & PUBLIC CONSULTATION**

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

## STATUTORY IMPLICATIONS

11. Under the *Local Government Act 1995*, section 6.8, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:
  - a. is incurred in a financial year before the adoption of the annual budget by the local government
  - b. is authorised in advance by a resolution (absolute majority required) or;
  - c. is authorised in advance by the mayor in an emergency.
12. If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of 7 days and (a) its intention to do so; and (b) the date from which it is proposed the fees or charges will be imposed.
13. The voting requirement of Council is **Absolute Majority**.

## POLICY IMPLICATIONS

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

## RISK IDENTIFICATION & MITIGATION

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

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

## FINANCIAL IMPLICATIONS

16. Please refer to the attachment: Budget Review for the period ending 31 March 2025.

## LEGAL IMPLICATIONS

17. Nil.

## ENVIRONMENTAL CONSIDERATIONS

18. Nil.

## ALTERNATE OPTIONS

19. For the period ending 31 March 2025, Council may consider to:
  - a. Adopt the Budget Review as recommended; or
  - b. Adopt the Budget Review with amendments (as specified by Council)

**SUMMARY CONCLUSION**

20. That the Responsible Officer's Recommendation to adopt the Budget Review for the period ending 31 March 2025 be supported.

<b>Consulted References</b>		<ul style="list-style-type: none"><li>• Adopted Budget 2024/2025</li><li>• Local Government Act 1995</li></ul>
<b>File Number (Name of Ward)</b>	:	FM.BUG.12
<b>Previous Reference</b>		<ul style="list-style-type: none"><li>• Adopted Budget 2024/2025 – OCM 23/07/2024 Resolution CCS647</li><li>• Budget Review Period Ending 31 July 2024 - OCM 24/09/2024 Resolution CCS657</li><li>• Budget Review Period Ending 31 December 2024 – OCM 25/02/2025 Resolution CCS690</li></ul>

**CCS714: C25003 – HARVEST AND SALE OF BLUEGUM TIMBER STOCK**

<b>Land Description</b>	: Lot 20, Lake Warburton Rd, Palmdale
<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: <b>Commercial in Confidence - Confidential Briefing Note under separate cover.</b>
<b>Report Prepared By</b>	: Manager Finance
<b>Authorising Officer:</b>	: Executive Director Corporate & Commercial Services

**STRATEGIC IMPLICATIONS**

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

**8.16PM**

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

**MOVED: COUNCILLOR SUTTON**  
**SECONDED: COUNCILLOR BAESJOU**

**THAT, in accordance with 4.1 of the Standing Orders Local Law 2014 (as amended), the meeting be CLOSED to members of the public in order to allow discussion regarding this report.**

**CARRIED 11-0**

**8.30PM**

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

**MOVED: COUNCILLOR CRUSE**  
**SECONDED: COUNCILLOR MCKINLEY**

**THAT the meeting be RE-OPENED.**

**CARRIED 11-0**

**RECOMMENDATION**

**CCS714: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR BAESJOU**  
**SECONDED: COUNCILLOR MCKINLEY**

**THAT**

1. Council DOES NOT AWARD Contract C25003 – Harvest and sale of bluegum timber stock, as detailed in the Confidential Briefing Note attached to this report.
2. INSTRUCTS the Chief Executive Officer to explore further options to harvest and sell the bluegum timber stock, as detailed in the Confidential Briefing Note attached to this report.

**CARRIED 11-0**

**DIS439: AMENDMENT OF CONDITIONS - P2160670 INDUSTRY -  
EXTRACTIVE (LIME) AT LOT 9005 EDEN ROAD, NULLAKI**

<b>Land Description</b>	: Lot 9005 Eden Road, Nullaki.
<b>Proponent / Owner</b>	: Graeme Robertson & Great Southern Lime Partnership.
<b>Business Entity Name</b>	: Great Southern Lime (WA) Pty Ltd & The Trustee for B.G Camarri Family Trust & The Trustee for Graeme Robertson Trust – ABN 47 614 073 910. <ul style="list-style-type: none"><li>• Directors being Kenneth Court, Scott Smith and Annette Howie.</li></ul>
<b>Attachments</b>	: 1. Copy of Development Application 2. Copy of existing DA conditions. 3. Consultation Main Themes & Objections. 4. Applicant's response to Consultation Themes & Objections. 5. DWER Technical (Review) Report.
<b>Supplementary Information &amp; Councillor Workstation</b>	: 1. State Administrative Tribunal decision WASAT 3 2019. 2. Schedule of Submissions Table. 3. Government agency responses. 4. Case Law references
<b>Report Prepared By</b>	: Senior Planning & Development Compliance Officer
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development & Environment

Councillor Grimmer and Councillor MacLaren declared an Impartiality Interest in this item. Councillor Grimmer and Councillor MacLaren remained in the Chamber and participated in the discussion and vote for this item.

**STRATEGIC IMPLICATIONS**

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed development, the Council is obliged to draw conclusion from its adopted *City of Albany Local Planning Strategy 2019* and *City of Albany Strategic Community Plan 2032*.
3. This item relates to the following elements of the *City of Albany Strategic Community Plan* or *Corporate Business Plan* informing plans or strategies:
  - **Pillar:** Leadership. A well-governed city that uses resources wisely to meet local needs.
  - **Outcomes:** A well-informed and engaged community.



**Maps and Diagrams:**



**In Brief:**

- Council is asked to consider an application to amend condition 4 and delete condition 17 of P2160670 for Industry – Extractive (Lime) at Lot 9005 Eden Road, Nullaki.

Condition	Current Wording	Proposed Amendment
Condition 4 – Time Restrictions on Activity	<p>Extractive industry activity hours:</p> <p>a) Area A (Excavation, processing/screening):</p> <ul style="list-style-type: none"> <li>• 7:00am – 5:00pm (Mon–Fri)</li> <li>• 8:00am – 5:00pm (Sat)</li> <li>• No activity on Sun/Public Holidays</li> </ul> <p>b) Transport of lime onsite (Area A → Area B):</p> <ul style="list-style-type: none"> <li>• 2 Jan – 31 Aug (inclusive)</li> <li>• Same hours as above</li> </ul> <p>c) Transport of lime offsite:</p> <ul style="list-style-type: none"> <li>• 2 Jan – 30 Apr (inclusive)</li> <li>• Same hours as above</li> </ul>	<ul style="list-style-type: none"> <li>• General extractive industry operation:</li> <li>• 7:00am – 5:00pm (Mon–Fri)</li> <li>• 8:00am – 5:00pm (Sat)</li> <li>• No operation on Sun/Public Holidays</li> </ul>
Condition 17 – Volume and Vehicle Movement Limits	<ul style="list-style-type: none"> <li>• Transport offsite must not exceed 50,000 tonnes/year.</li> <li>• Laden vehicle movements: <ul style="list-style-type: none"> <li>– Max 84 vehicles per 7-day period</li> <li>– Max 20 vehicles on any one day</li> </ul> </li> </ul>	Remove restriction

- This is an existing non-conforming land use on this lot.
- The application was advertised for public comment via direct mail out to nearby landowners and by email to known interested parties including those who have commented previously. There was also a notice on the City of Albany website with the details of the application.
- The majority of the 105 response submissions received were opposed to the requested changes.
- The requested change and deletion of conditions have been assessed against the relevant regulations, guidelines and policies. Advice from State agencies and relevant matters raised during the advertising period have been considered as part of the City's assessment.
- The supporting information provided with the application is limited in some elements of its detail, so must be considered in this context.
- Due to the number of concerns raised, the application is being referred to Council for determination.
- The requested changes would allow a relative intensification of the extractive industry activity with resulting implications for the amenity, values and attributes of the locality.
- Staff therefore recommend that Council refuse the requested change to condition 4 and deletion of condition 17 of P2160670.

**RECOMMENDATION**

**DIS439: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: DEPUTY MAYOR TERRY**  
**SECONDED: COUNCILLOR TRAILL**

**THAT Council resolves to ISSUE a notice of REFUSAL for development application P2240364 seeking amendment of Condition 4 and deletion of Condition 17 of P2160670 for Industry – Extractive (Lime) at Lot 9005 Eden Road, Nullaki, for the following reasons:**

- 1) The proposal does not satisfy the following matters to be considered as identified in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, namely;**
  - a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;**
  - b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;**
  - c) any approved State planning policy;**
  - n) the amenity of the locality including the following:**
    - i. environmental impacts of the development;**
    - ii. the character of the locality;**
    - iii. social impacts of the development;**
  - o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;**
  - t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;**
  - x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;**
  - y) any submissions received on the application;**
  - z) the comments or submissions received from any authority consulted under clause 66;**
- 2) The proposal does not comply with the general objectives of the Environmental Conservation Zone as set out in Local Planning Scheme No.2;**
- 3) The proposal does not provide adequate technical evidence (e.g. acoustic, environmental, and traffic assessments) to demonstrate that the impacts of the proposed changes can be satisfactorily mitigated;**
- 4) Development approval cannot be granted on an application for approval of development that is a class X use in relation to the zone in which the development is located.**

**CARRIED 8-3**

**Record of Vote**

Against the Motion: Councillor Lionetti, Councillor Brough and Councillor McKinley.

**DIS439: COMMITTEE RECOMMENDATION**

**MOVED: DEPUTY MAYOR TERRY**

**SECONDED: COUNCILLOR GRIMMER**

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

**CARRIED 7-2**

**Record of Vote**

Against the Motion: Councillors Lionetti and McKinley

**DIS439: AUTHORISING OFFICER RECOMMENDATION**

THAT Council resolves to ISSUE a notice of REFUSAL for development application P2240364 seeking amendment of Condition 4 and deletion of Condition 17 of P2160670 for Industry – Extractive (Lime) at Lot 9005 Eden Road, Nullaki, for the following reasons:

- 1) The proposal does not satisfy the following matters to be considered as identified in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015, namely;
  - d) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
  - e) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;
  - f) any approved State planning policy;
  - o) the amenity of the locality including the following:
    - i. environmental impacts of the development;
    - ii. the character of the locality;
    - iii. social impacts of the development;
  - p) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
  - u) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
  - aa) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
  - bb) any submissions received on the application;
  - cc) the comments or submissions received from any authority consulted under clause 66;
- 2) The proposal does not comply with the general objectives of the Environmental Conservation Zone as set out in Local Planning Scheme No.2;
- 3) The proposal does not provide adequate technical evidence (e.g. acoustic, environmental, and traffic assessments) to demonstrate that the impacts of the proposed changes can be satisfactorily mitigated;
- 4) Development approval cannot be granted on an application for approval of development that is a class X use in relation to the zone in which the development is located.

## BACKGROUND

4. The subject site lies to the western side of Lower Denmark Road and to the southern side of Eden Road, approximately 40km west of Albany City centre. Access is provided by the recently constructed and upgraded Lee Road.
5. The lot has an area of approximately 437 hectares and is zoned 'Environmental Conservation' being part of the wider zoning identified as area 93 in Figure 16 of Schedule 10 of City of Albany *Local Planning Scheme No. 2 (LPS2)*.
6. The subject lot adjoins reserved land to the south and east. The land to the north and west is also part of the Environmental Conservation zone. The Bibbulmun Track runs through the reserve to the east of the subject site.
7. Due to the environmental properties of the land, and in order to secure long term land use protection, the Nullaki Peninsula is zoned Environmental Conservation under *LPS2* and was previously zoned Conservation under *Local Planning Scheme No.1 (LPS1)*.
8. The lot has an existing land use right (non-conforming land use) for an 8-hectare area towards the south-east corner of the lot to be used for an extractive industry producing lime.
9. The existing extractive industry was granted development approval by the State Administrative Tribunal in January 2019, subject to 45 conditions.
10. On 24 May 2019 Local Planning Scheme amendment 29 (AMD29) of LPS1 was gazetted. In addition to other matters, AMD29 clarified that an Industry – Extractive was to be considered an 'X' use within Conservation Zone CZ1. An 'X' use means the land use is not permitted by the Scheme.
11. The 'X' designation against the Industry – Extractive land use has been continued in the Environmental Conservation zone in LPS2.
12. The Industry – Extractive use on part of Lot 9005 was lawful following approval by the Tribunal on 10 January 2019, but it became a non-conforming use after the gazettal of LPS1 AMD29 on 24 May 2019.
13. A non-conforming use can lawfully continue operating, subject to meeting specific criteria set out under the local planning scheme.
14. In December 2023 Council considered and granted amendments to conditions 2, 4, 17 & 43 of Development Approval P2160670.
15. This included creating a 3ha stockpile area at the base of the steep hill so road going trucks would not have to climb the steep gradient to the pit location and instead could be loaded in this stockpile area.
16. Approval of this change overcame safety concerns raised by the Mines Safety Inspectors of The Department of Energy, Mines, Industry Regulation and Safety (DEMIRS).
17. This application is seeking approval for the Industry – Extractive to operate year-round (12-months of the year) with no limitation on tonnage extracted and no limit on vehicle movements removing extracted material from the property.

## DISCUSSION

18. This application is seeking modifications to conditions of the development approval for an Industry – Extractive for lime from the 8-hectare area subject to the existing non-conforming use right.
19. This proposal seeks to be less restricted than the existing approved use through full operation of all aspects of the extractive activity for 12 months of the year within standard hours of operation Monday to Saturday, with no operation on Sundays or Public Holidays.
20. The proponent also seeks no limit on the volume or weight of material extracted each year and no limit on the number of vehicles removing material from the site each day or over a given period of time.
21. There are two (2) ways this application can be viewed. Firstly, is that it is a new application for an Industry – Extractive or secondly that it is an amendment of the existing approval seeking variation or removal of specific conditions.

### New Application

22. The original approval, obtained by the proponent through the previous SAT process, was subject to strict limitations—specifically, that the entire operation would only function for four (4) months of the year, with additional restrictions on output in terms of tonnage and laden vehicle movements.
23. Consequently, for the remaining eight (8) months of the year, the land use would cease to operate.
24. The unrestricted operation now sought through this application would allow such a significant intensification of the use that it could be considered to have little resemblance to the limited activity originally considered by the Tribunal in its approval. As such, this might be viewed afresh as an entirely new application.
25. Accordingly, if treating this application as an application for new development, one must look to the Zoning Table in LPS2 to determine the permissibility of the proposed land use. The Zoning Table is Table 3 under clause 17 in Part 3 of LPS2.
26. The Zoning Table informs that in the Environmental Conservation Zone the Industry - Extractive land use is an 'X'. Clause 18 in Part 3 of LPS2 informs that the 'X' symbol in the zoning Table means that the use is not permitted by this Scheme.
27. If the application is considered to be a new application by reason of the significant intensification; as an 'X' use the City and Council has no discretion, it cannot be approved, and the application must be refused.

### Amendment of Existing Approval

28. Another way to view this application is that despite the significant intensification sought, the application is not a new application, but an amendment or alteration of the existing non-conforming use approved by the Tribunal.
29. Deemed Provision clause 77 in Schedule 2, Part 9 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations) deals with amending and cancelling development approvals as follows:

Amending or cancelling development approval

- (1) An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following —
    - (a) to amend the approval so as to extend the period within which any development approved must be substantially commenced;
    - (b) to amend or delete any condition to which the approval is subject;
    - (c) to amend an aspect of the development approved which, if amended, would not substantially change the development approved;
    - (d) to cancel the approval.
  - (2) An application under subclause (1)
    - (a) is to be made in accordance with the requirements in Part 8 and dealt with under this Part as if it were an application for development approval; and
    - (b) may be made during or after the period within which the development approved must be substantially commenced.
  - (3) Despite subclause (2), the local government may waive or vary a requirement in Part 8 or this Part in respect of an application if the local government is satisfied that the application relates to a minor amendment to the development approval.
  - (4) The local government may determine an application made under subclause (1) by:
    - (a) approving the application without conditions; or
    - (b) approving the application with conditions; or
    - (c) refusing the application.
30. Although the proponent's request would significantly increase the activity, clause 77(1)(b) of the Deemed Provisions allows a landowner to apply to the local government to amend or remove any condition of an existing development approval.
31. This applies in this case because the Tribunal's decision replaced the City's original decision and is now considered the City's decision.
32. Furthermore, clause 23 (1)(a) of LPS2 reflects the Model Provisions of the Regulations, and provides that a person must not, without development approval, alter or extend a non-conforming use of land.
33. As previously advised in DIS376 (para.37) there is case law and legal precedent on similar considerations that lends weight to this view including:
- Re Shire of Carnarvon: Ex Parte Humphrey (2005) WASCA 182
  - City of Mitcham v Fusco (2002) 124 LGERA 196
  - Prestige Car Sales Pty Ltd v Walkerville Town Corporation (1979) 20 SASR 514
  - Royal Agricultural Society (New South Wales) v Sydney City Council (1987) 61 LGRA 305.
34. The requested development proposed would be a significant intensification of the land use activity. Whilst it would still be the same activity, as there is no change in the essential nature of the existing use – extraction of lime, the increased duration of the activity bears little resemblance to that envisaged in the original approval. This could legitimately be considered as a new land use proposal.
35. Accordingly, it is important for this application to be considered and assessed from both perspectives – as a new proposal and as an alteration of the existing non-conforming use with the Proponent's request being to amend or delete specific conditions.



Alterations sought

Condition 4 – Time Restrictions on Activity

36. The existing condition, following the previous amendment in December 2023 reads:

- Except as otherwise approved by the City of Albany, the hours of operation of the various elements of the extractive industry activities shall be restricted as follows:
  - a) Excavation, processing/screening and associated activities within Area A between the hours of 7.00am - 5.00pm Monday to Friday, and 8.00am - 5.00pm Saturday, with no operation of the extractive industry permitted on Sundays or Public Holidays;
  - b) Transportation of lime onsite from the extraction site (Area A) to the stockpile area (Area B) within the period of 2 January to 31 August (inclusive) between the hours of 7.00am - 5.00pm Monday to Friday, and 8.00am - 5.00pm Saturday, with no operation of this activity permitted on Sundays or Public Holidays;
  - c) Transportation of lime offsite within the period of 2 January to 30 April (inclusive) between the hours of 7.00am - 5.00pm Monday to Friday, and 8.00am - 5.00pm Saturday, with no operation of this activity permitted on Sundays or Public Holidays.

37. The requested amendment to this condition is:

- Except as otherwise approved by the City of Albany, the hours of operation of the extractive industry shall be restricted to the hours of 7.00am – 5.00pm Monday to Friday and 8.00am – 5.00pm Saturday with no operation of the extractive industry permitted on Sundays or Public Holidays

38. This change to condition 4 seeks to remove the specific limited season restrictions that apply to this extractive operation and instead align it with generic activity timing that generally applies to most extractive industries.

Condition 17 – Volume and Vehicle Movement Limits

39. The existing condition reads:

- Transportation offsite of extracted lime shall not exceed 50,000 tonnes in any 12 month period. Laden vehicle movements removing lime from the Lot shall not exceed eighty-four (84) vehicles over a seven (7) day period, with a maximum of twenty (20) vehicles on any one (1) day.

40. The requested amendment to this condition is to delete this condition entirely.

41. This change seeks to remove the lime processing and production limitation as well as the limitation on number of vehicles (trucks) hauling the extracted material from the lot. This would allow unlimited production and export within the hours of operation sought through the requested change to condition 4.

42. The following is a summary of the proponent's reasons behind the requested changes:

- The lime is urgently needed for agricultural production to combat soil acidity.
- The business is severely restricted by the conditions in terms of production, limited volume and delivery vehicle movements.
- The capacity to only earn income for 4 months a year restricts the business.
- They want to diversify to offer road base as well as aglime as there is strong demand and they have received a request to supply 20,000 tonnes per year.
- They anticipate the demand for their aglime will exceed the 50,000 tonne annual limit and as this is required by farmers each year, if they cannot supply it they will lose customers.
- They want to be a reliable supplier with capacity to respond to changing demands.



- An increase above 50,000 tonnes can be accommodated within the existing operational footprint.
- They had to upgrade the local road network to accommodate the truck traffic and the roads are now fit for purpose.
- Other extractive industries are not limited to supplying their product during only 4 months per year.
- They believe the expanded operations will not impact on the Australasian Bitterns at Eungedup.

Public Consultation

43. The concerns or objections raised that are directly relevant to the requested condition amendments relate primarily to the following themes:
- Environmental Concerns – particularly the impact on endangered species and the wetland ecosystem.
  - Development Suitability – does not align with the Conservation focus of the Nullaki area.
  - Traffic, Road Safety & Infrastructure – increased traffic and suitability of the local road network.
  - Planning & Zoning Compliance – original approval on strict conditions now sought to be weakened.
  - Community Impact – amenity degraded by increased activity.
  - Fire Risk & Emergency Response – increased activity raises the hazard risk, increased traffic and degraded roads can delay emergency response.
  - Business & Economic Arguments – business decision to proceed on original constraints. Community should not compromise for private profitability.
44. The proposal was also referred to the Department of Water and Environmental Regulation (DWER), the Department of Biodiversity, Conservation and Attractions (DBCA), the Department of Primary Industries and Regional Development (DPIRD), the Department of Energy, Mines, Industry Regulation & Safety (DEMIRS) and to Main Roads WA.

Assessment

45. Due to the change in onsite operation methodology contemplated by the variation approved by Council in December 2023 where stockpiles in an area at the base of the hill are created and replenished for the loading of offsite transport; the proponent commissioned a noise monitoring report that was undertaken during the time of construction of the stockpile area (Area B).
46. This noise monitoring report was undertaken on 3 August 2024 with a moxy haul truck operating on the haul road between Areas A and B. The suggestion is that this is representative of the onsite activity.
47. The report claims to demonstrate that the haul truck does not generate significant noise to impact wildlife at the Eungedup Wetlands or be disruptive to users of the Bibbulmun Track campsite.
48. However, this report only covers one part of the onsite operations and doesn't represent all activities, such as crushing and screening, multiple trucks using the haul road, stockpiling, loading trucks, and transporting material offsite. Many of these activities may happen at the same time and could have a combined and compounding impact.
49. As this noise monitoring report only covered one aspect of the overall operation, its findings must be considered in this context and as such it is suggested they are of limited relevance and should be given appropriate weighting in the consideration of this application.

50. As the subject lot is zoned Environmental Conservation and the land use of Industry - Extractive as an 'X' is not permitted by the Scheme, the general community expectation would be that this activity could not and would not be permitted at this location.
51. Having said this however, the existing non-conforming use right cannot be ignored and must be accepted for what it is.
52. On the whole, the community have reluctantly accepted this limited non-conforming use subject to the restrictions including on the period of operation and the controls over traffic associated with the operation.
53. Any intensification of the extractive operation through increased traffic or the period of operation would conflict with the aims and objectives of the zoning and the expectations of activities in this locality
54. The requested changes to both conditions 4 and 17 have very similar planning considerations but still need to be examined and assessed separately.

Condition 4 – Time Restrictions on Activity

55. The existing approved period of operation (January to April for offsite transport and January to August for onsite operations) is already approved and accepted, it is only the requested additional operating time that can be considered as part of this request.
56. The requested four (4) month increase for onsite operational activity and eight (8) month increase for offsite haulage becoming a full-time year-round operation of the extractive industry is a significant change and increase in activity.
57. Whilst it would allow flexibility for the operator in no longer having a limited window of opportunity to conduct its operation, there would be impacts from the extended operation within and beyond the site that would be wide reaching and need to be considered carefully.
58. In December 2023, Council considered a request for year-round onsite operations, with transport offsite still limited to four months (January to April). After reviewing all the information, Council decided not to support year-round operations.
59. Instead, it approved eight months of onsite work, with no activity from September to January. Transport of material offsite stayed limited to four months. Since then, little has changed in the matters Council needs to consider for this site.
60. Consultation responses raised concerns about noise impacts on the Bibbulmun Track and the Nullaki camp shelter.
61. While the shelter is about 600 metres from the stockpile loading ramp, it is only around 450 metres from the nearest part of the haul road. The Bibbulmun Track also runs close to the haul road in places, coming within 5 metres at one point on a steep slope.
62. The haul truck is a slow-moving vehicle. Getting loaded at the pit and making the 3km round trip to unload at the stockpile area to return to the pit takes between 20-30 minutes.
63. Therefore, a single haul truck uses the haul road up to 6 times per hour during the hours of operation. During the period of peak demand for lime for agricultural purposes, the operator has been running two (2) haul trucks.
64. Given the hours of operation of the site are 7am to 5pm Monday to Friday and 8am to 5pm on a Saturday, it is expected that most users of the shelter would be walking the track between shelters during the greater part of these times and therefore would not be at the shelter.
65. It is also recognised that walking the Bibbulmun Track is not an entirely traffic or noise free experience. Walkers continuing through on this track section may experience around 4 haul truck movements as they pass through during the daytime operating period.

66. The noise report tried to show there would be no noticeable impact at the Nullaki shelter, but its limitations have been discussed.
67. City staff visited the shelter during operations and confirmed that noise from the haul truck and other activities could clearly be heard above the usual background sounds. While not loud or disturbing, it was a mildly noticeable and unnatural noise in the area.
68. The Department of Biodiversity, Conservation and Attractions (DBCA) in its response to this application has reiterated that the period October to December each year are the peak months of usage of the Bibbulmun Track.
69. Currently there is no extraction related activity occurring on this site during this period, so the current peak usage time would have no noise or traffic related to extraction operations. Any change from the current status would likely have a level of impact on users of this section of the track during this time.
70. In addition to the noise impact on users of the Bibbulmun Track, the noise impact on fauna, in particular the Australasian Bitterns, continues to be raised as a concern and needs to be considered.
71. These endangered birds nest and breed in the area between September and December. Their successful breeding relies on females hearing the males' booming calls. The concern is that noise may have a significant disruptive impact.
72. With the Bittern habitat being further away from the haul road than the Bibbulmun Track Nullaki shelter, it is reasonable to anticipate that onsite operating vehicle noise will be less noticeable at this location.
73. In response to the previous concerns raised regarding the Australasian Bitterns, the proponent's Environmental Consultant has updated the research and analysis of the limited published scientific data on this species.
74. The research suggests that any noise from onsite activities is unlikely to affect the Bitterns breeding, as their 'booming' calls are mostly at dawn and dusk during the mating season and they stay hidden during the day.
75. The Consultant says the operation won't affect the Australasian Bitterns, but this is based on the noise report and seems to use only some of the available information.
76. In section 3.1 of their report they have quoted the Report of the Appeals Convenor to the Minister for Environment (July 2024) and have stated:

I believe it will assist you to know that the conclusions I have reached in preceding sections are validated by other assessments and by advice published in the technical literature.

In the report Appeals Committee Report to the Minister for Environment: Appeals objecting to L9381/2023/1 and CPS 10188/1, Nullaki Limestone Quarry, City of Albany (July 2024) the committee found as follows:

*"In considering the potential impacts of the operation on the Australasian Bitterns, the Appeals Committee accepts DWER's position that the sanctuary mentioned by the appellant does not appear in any relevant database, and that due to its purported distance from the facility, its inclusion would not have altered the outcomes of the risk assessment in any case. The Appeals*

*Committee noted that the City of Albany also considered impacts on the bittern in its assessment of revisions to the DA, and it is for this reason that the DA prohibits operations between September and December each year, coinciding with the bitterns mating season.*

*The Appeals committee concludes that Appeal 039/23 should be dismissed."*

I note that the information I have presented earlier, confirms that the prohibiting of operations between September to December will not have the effect of further protecting Australasian Bitterns during breeding season.

77. In the same Appeals Committee Report and in relation to impacts on the Australasian Bitterns it is written:

"Although not explicitly raised by the appellant as a concern, it is worth noting that the City of Albany in its assessment of the proposed DA amendments in December 2023 considered the potential impacts of noise on the Australasian Bittern. The City's Development and Infrastructure Committee noted that the breeding season for the Australasian Bitterns runs from September to December and that:

Their success breeding relies on females hearing the males' booming calls, so there is concern that noise may have a significant disruptive impact.

The scientific information on which the City relied suggests that the booming calls occur mostly, but not exclusively at dawn and dusk, which would be outside the operating hours of the quarry. However, the City felt there was still a risk of unacceptable impacts on bittern breeding, and for this reason denied the operator its request of 12 months' operation. Condition 4 of the DA prohibits extraction or transport activity between September and December, coinciding with the bittern mating season. This is an important control that reflects a precautionary approach. The proponent is also required to comply with the requirements of the *Environmental Protection (Noise) Regulations 1987*."

78. City Staff consider the second to last sentence is worthy of note and relates to Council's previous decision "This is an important control that reflects a precautionary approach". There is no sustainable supporting information in this application to suggest this precautionary approach should not be continued.
79. The report from the Environmental Consultant provided as part of the application focuses on the noise from the onsite operational activity and the limited noise monitoring report where only 1 haul truck was operating for the purposes of the data collection.
80. This focus on the onsite activity follows the considerations of the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations), which apply prescribed standards to protect human health and amenity.
81. The standards apply at the noise sensitive premises, usually people's homes. In this case the closest home is over 1km away from the Lee Road access gate on to the subject site. The Noise Regulations do not apply standards for the protection of fauna.
82. The Noise Regulations also only apply to onsite noise generating activities. The traffic going to and leaving from the site on public roads are not subject to consideration under the Noise Regulations.
83. But while onsite they do fall within and would form part of the consideration under the Noise Regulations. This was not included in the Noise Monitoring Report and not considered by the Environmental Consultant in their report.

84. Although outside of consideration under the Noise Regulations, the trucks and other vehicles travelling on the public roads associated with the extractive operation can be considered by Council in deliberations on this matter as noise is only one aspect of this element of associated activity.
85. The City has traffic count data to help quantify the increase in traffic that is largely attributable to the extractive operation.
86. A temporary traffic count was undertaken on Browns Road over 15 days commencing on 19 April 2018. This predates the Tribunal's decision approving the land use. The data from this traffic count informs the following:

<b>Average Weekday vehicles</b>	16
<b>Average Weekend Day vehicles</b>	9
<b>Short Vehicles</b>	91.75%
<b>Short Vehicles Towing</b>	8.25%
<b>Medium Vehicles</b>	0%
<b>Long Vehicles</b>	0%
<b>Combination Vehicles</b>	0%

87. The City now has a permanent traffic count device installed on Lee Road beyond the access to the last property with a residence. This device records traffic data for vehicles likely to be there in connection with the extractive operation as there is no other property access beyond that point.
88. The data from this device for the period 2 January 2025 to 7 April 2025 informs the following:

<b>Average Weekday vehicles</b>	37
<b>Average Weekend Day vehicles</b>	7
<b>Short Vehicles</b>	39.03%
<b>Medium Vehicles</b>	4.35%
<b>Long Vehicles</b>	10.76%
<b>Combination Vehicles</b>	45.86%

89. In comparing this data, it needs to be acknowledged that whilst it was recorded in the same vicinity, the two (2) sets of data are not from the same location.
90. Along the length of Browns Road and Lee Road there has been no subdivision or residential development with the only development of note to attribute changes in traffic type and numbers to being the extractive industry operation on the subject property.
91. As already noted, the latest data is taken from the road beyond any residences and can be primarily attributed to the operation of the extractive land use.
92. From the data it is clear that in addition to there being a significant increase in traffic volume, trucks now make up over 56% of that traffic, whereas previously no trucks were recorded during the period. This represents a change to the traffic profile in the area over this period.

93. This data informs and shows the changes in traffic profile with the current operation that is limited to four (4) months per year of haulage from the site.
94. A significant change such as requested through this operation would ordinarily be accompanied by a Traffic Impact Assessment (TIA). A TIA has not been produced to assess the anticipated changes to traffic patterns that would arise from the compounding effects of the requested changes to these two (2) conditions.
95. Without a TIA prediction of these changes, it is left to planning staff and Council to speculate (informed by current activity) as to the possible traffic increases that would likely result from the requested changes of these conditions.
96. The traffic to and from the extractive operation pass a lot closer to the wetland habitat of the Bitterns. The intersection of Browns Road and Lee Road is part of the transport route for all visiting traffic and is only 200m from Lake Saide and some 400m from the Eungedup Wetlands.
97. Traffic, trucks in particular, generate noise. The existing approved operation has already brought a change to the traffic and resulting noise experienced in this area. This has been limited to the four (4) month operating period with the remaining eight (8) months of the year returning to local traffic only.
98. The requested increase would bring a year-round increase in traffic and the noise of this traffic would be heard from and impact on the Eungedup Wetlands. It is the increased traffic noise rather than the noise from onsite operations that is more likely to impact on the Australasian Bitterns.
99. The Noise Monitoring Report, whilst limited in its subject recorded data, does in section 7 provide information on noise impacts on wildlife.
100. This presents mixed results across different studies with some indicating increased noise being a positive outcome for some species. However, in the section 10, discussion in relation to noise it is stated “...the tolerance of the Australasian Bittern is unknown.”
101. Due to limited studies and lack of species-specific data on the endangered Australasian Bittern, the impact from close proximity traffic noise, including heavy haulage, is an unknown. It is suggested a precautionary approach as previously acknowledged should be continued.
102. In addition to passing close by the wetland habitat of the endangered Australasian Bitterns, the traffic passes the residential properties of many local residents along the haulage route.
103. This area can be typically described as lifestyle properties and low intensity hobby farm agriculture as well as the Environmental Conservation properties further west.
104. Currently it is accepted there is the extractive operation and associated traffic from January through to the end of April, but this request seeks to extend this year-round. Such a change of land use operation would be contrary to the established character and amenity of the area.
105. As previously stated, the Noise Regulations prescribe standards to protect human health and amenity, but the noise from traffic on public roads falls outside of this consideration. So, whilst noise from this traffic is not something that can be considered, other associated impacts are.

106. Before the extractive operation, these roads mostly saw light rural and residential traffic, with trucks appearing only occasionally, such as during harvest for some select properties. Now, trucks—mainly double trailer road trains—travel the route daily (six days a week) due to its inclusion in the RAV network.
107. While road trains are common on major roads, they are unusual on narrow, winding rural roads. These roads previously carried mainly cars, 4WDs, tractors, horses, and bikes, so the current truck traffic is a stark change from the area's typical lifestyle use.
108. The use of the road by heavy haulage vehicles brings with it additional risks which is why the use by these vehicles is subject to specific restrictions. One of these restrictions is that the maximum speed these vehicles should be doing is 40km/h.
109. This speed limit was set as it was the achievable safe design speed due to the natural and physical constraints that impacted the design for the road upgrades resulting from the original extractive industry approval.
110. Although the speed limit for RAVs is 40km/h, there is community concern that many of the trucks don't adhere to the limit. Information from the City's traffic counter informs that in the 4 weeks to 7 April 2025 there were 142 long combination vehicles (RAVs) and of these 133 were exceeding the 40km/h limit with most doing between 41-60km/h at the recording location.
111. With the majority of the heavy haulage vehicles exceeding the limit applied to them, there is concern for road safety for these drivers as well as other road users. These concerns have been referred to the relevant authorities to follow up.
112. This has also been raised with the proponent and their onsite operator. The response received is that they will continue to advise customers of the rules that apply as orders are taken, but they feel they cannot be held responsible for the truck operators on the public roads.
113. Although this is a snapshot within the current four (4) month limited operation season, it can reasonably be anticipated that this level of non-compliance would likely continue through an extended extractive operating period.
114. The extractive heavy haulage traffic is currently limited to a four (4) month window meaning the remaining eight (8) months of the year are free of this traffic and the local community have this period of respite from these impacts.
115. Allowing the haulage trucks beyond the current four (4) month limited operation season would extend this impact on the local community to be year-round with no break from it.

Condition 17 – Volume and Vehicle Movement Limits

116. The two (2) elements to this condition are closely linked. The tonnage limit and laden vehicle movements were set as the number of vehicles over the four (4) month operating season were what would be required to transport the anticipated product demand on the assumption the majority of vehicles would be double trailer road trains.
117. Deleting this condition as requested would remove these limits and allow unlimited annual production and truck movements within the hours of operation. The only constraint on the resulting increase in extractive related traffic would be the ability onsite to load the trucks.
118. The impacts discussed above relating to road traffic and disturbance from onsite operations would be exacerbated by the increased activity and output of the originally limited operation, which is now a non-conforming use.

119. As mentioned in the previous report to Council, any significant increase in truck movements will have an impact on the local community using these relatively quiet rural roads.
120. Through that previous consideration, Council approved what was considered to be a reasonable and justified concession on laden vehicle movements leaving the site. To remove this limit entirely given all the circumstances relating to the location of this operation would exceed this determined acceptable position.
121. Whilst the current conditioned approval is not exactly what the proponent had originally sought in 2016, it is reflective of concessions made during the previous State Administrative Tribunal process.
122. It was these changes in the form of limitations and restrictions that resulted in the Tribunal considering the proposal acceptable and capable of approval on this limited basis. The approval was then conditioned as such.
123. The proponent chose to develop the site and commence operation of the use in full knowledge of the constraints and limitations inherent in the original approval. This shows an acceptance and apparent willingness to comply.
124. However, they are now suggesting the limited operation under that original approval is not a sound basis for their business to operate.
125. It is the proponent's view and advanced as their justification position that they need to meet a demand. The City understands the need for lime for agricultural purposes and is aware this site is not the only available resource.
126. This site is not recognised at State level as a Significant Geological Supply under State Planning Policy 2.4 – Planning for Basic Raw materials (SPP 2.4).
127. SPP 2.4 also has an objective to ensure extraction avoids, minimises or mitigates any adverse impacts on the community, water resources and biodiversity values.
128. The status quo of the existing conditions allows extraction to occur to continue to service the demand from the agricultural sector and balances this with minimising the adverse impacts.
129. Any change relaxing these restrictions and limitations risks increasing the impacts on the community as well as potentially eroding the biodiversity values of the Eundegup Wetlands.
130. Taking all of the above into consideration, it is the officer's opinion that the proposed alteration and removal of the existing limitations and restrictions would result in unacceptable impacts on the amenity, values, and attributes of the area.
131. The introduction of additional heavy haulage traffic over an extended period would constitute an incongruous disruption to the established ambience of the locality, with unknown—but potentially detrimental—impacts on an endangered species.



## GOVERNMENT & PUBLIC CONSULTATION

132. As there were two (2) ways to consider this application as discussed in paragraphs 17-28 above with one (1) of these being changes to a non-conforming use; clause 23 (2) of LPS 2 requires the application to be advertised. The advertising was carried out in accordance with Clause 64 of the deemed provisions as not a complex application.
133. The application was advertised for public comment via direct mail out to nearby landowners along the haulage route as far as Lower Denmark Road. A notice was also placed on the City of Albany website and was emailed to people with a known interest in this land use on the subject property including people who had commented on the previous proposal. This advertising was open for 14 days, but any submissions lodged after this time have also been accepted.

### 134. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Inform	Mail Out	25/11/24 – 9/12/24	129	Yes
Inform	Email – Community group mailing list and previous respondents	25/11/24 – 9/12/24	59	Yes
Inform	Website	26/11/24 – 9/12/24	Unknown	Yes

135. A total of 105 public submissions were received in relation to the proposal. Of these **5** were supportive of the changes requested in the application, whilst the other **100** were opposed to the application.
136. The broad issue themes raised in the submissions are set out above under Public Consultation, and many of these are discussed under the Assessment in relation to the specific matters.
137. In addition to the public consultation, the proposal was also referred to the Department of Water and Environmental Regulation (DWER), the Department of Biodiversity, Conservation and Attractions (DBCA), the Department of Energy, Mines, Industry Regulation and Safety (DEMIRS), the Department of Primary Industries and Regional Development (DPIRD) and to Main Roads WA.
138. DWER advised that the requested changes to the conditions are not covered by the existing approvals/licences/permits or the variation currently being assessed. The proponent will need to seek an update to or amend these other approvals or obtain new approvals prior to commencing work in accordance with any changed detail.
139. DWER will not consider the scope of the proposal during their assessment of the current licence amendment process. They also make the following points:
- A new dust management plan is required to address expanded operations and additional haulage.
  - Concerns with regard to impact on water supply if this is used for dust management operations.
  - Potential concern for stormwater discharge from roads due to increased operations and haulage. Site specific erosion and sediment control plans would be required to minimise the environmental impacts of run-off.
140. Additionally, DWER have provided a Technical (Review) Report providing advice on the acoustic assessment reports. This is mainly the Herring Storer report(s) (not provided as part of this application) and to a lesser extent the Aurora Noise Monitoring report.

141. DBCA advised they object to the requested changes having already objected to the original proposal and the previous variation. They have concerns for the welfare and amenity of hikers using the Bibbulmun Track and the Nullaki Shelter. Also, that the extended operation overlaps with the Australasian Bittern breeding season and the noise monitoring was not representative of mining activities or when conditions would carry noise towards the wetland.
142. Of the other consulted agencies; DPIRD does not object to the requested changes; Main Roads has no comment to make; and DEMIRS did not respond to the consultation.
143. The proponent has been informed of the advice from the various Government Agencies.
144. Several Elected members and the CEO attended a meeting organised by community members on 29 April 2025.
145. The purpose of the meeting was for community members to better understand the planning process associated with this current application and for them to share their concerns. During this meeting, they were informed about issues related to the impacts of the current operation and matters raised in submissions concerning the proposed modifications.

### STATUTORY IMPLICATIONS

146. As discussed in paragraphs 17-28, the existing Industry - Extractive is recognised as a non-conforming use on this lot and this application could be considered as an amendment or alteration of the existing approval rather than an application for a new development.
147. The fact the zoning table of the Scheme has the Industry – Extractive land use as an 'X' (not permitted) for the Environmental Conservation zone is one element of consideration of this proposal, but it has also been fully assessed as an alteration of the existing non-conforming use.
148. As the application relates to an extension of the duration of the existing activity rather than a physical extension of where the activity is undertaken, many of the usual considerations are not applicable. Instead, it is more the impact on amenity, the local community, the environment, and traffic and road safety arising from the extended operating period and limitless haulage that needs to be considered.
149. This is a quasi-judicial decision informed by the requirements for consideration of application by local government as set out in clause 67 in Schedule 2 of the Regulations.
150. Voting requirement is a **Simple Majority**.

### POLICY IMPLICATIONS

151. The primary assessment criteria for an application for an Industry – Extractive is the relevant general development standards as set in Table 13 of Schedule 6 of LPS 2. This is enhanced through the requirements as set out in the Extractive Industries Local Law 2009.
152. However, these considerations are primarily targeted towards new development rather than extended duration of existing development.
153. *State Planning Policy 2.4 – Planning for Basic Raw Materials* has a number of objectives. Many of these relate to protecting resources from incompatible development. Whilst these are not relevant in the context of this application, one objective is. This is to ensure extraction avoids, minimises or mitigates any adverse impacts on the community, water resources and biodiversity values.

154. The Department of Planning, Lands and Heritage *SPP 2.4 – Planning for Basic Raw Materials Guidelines (2021)* explains basic raw materials categories grouped as Significant Geological Supply (SGS) areas and Extractions Sites (ES). Whilst Albany has some SGS areas, this site is not recognised as one and would be considered an ES area.

### RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Organisational Operations and Reputation. Risk:</b> Approval may generate a variety of detrimental impacts on the amenity of the area.	Likely	Moderate	High	The application has been assessed against the relevant statutory framework and staff have recommended it be refused.
<b>Opportunity:</b> Balancing competing interests in arriving at a decision that allows an industry to continue to operate whilst minimising detrimental community impacts.				

### FINANCIAL IMPLICATIONS

156. Should the proponent be aggrieved by Council's decision and seek a review of that decision or conditions through the State Administrative Tribunal. If an application for review is accepted by the Tribunal, the City could be liable for costs associated with defending the decision at a State Administrative Tribunal hearing.
157. The proponent has already lodged an application for review at the State Administrative Tribunal on the grounds of no decision having been made on the application within 90 days. As part of this process Council is required to make a decision prior to 6 June 2025 in advance of the Directions Hearing scheduled at 9:30am on Friday 13 June 2025.

#### Regulatory Cost Implications:

158. There has been significant community concern regarding non-compliance with the existing conditions of approval.
159. This has had an impact on resourcing estimated to be equivalent to 0.2 FTE over the four (4) month period of operation. If this were to be extended to a full-time year-round operation as requested, it is readily foreseeable that there would be a resulting increased compliance burden that would need to be accommodated within the budget and resourced, otherwise this diminishes resources that could be applied elsewhere.

### LEGAL IMPLICATIONS

160. 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*.
161. 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.
162. The proponent has already commenced the State Administrative Tribunal process.

## ENVIRONMENTAL CONSIDERATIONS

163. DWER are the responsible body for the assessment of the environmental impacts of the proposal. The current works approval and the amendment currently under consideration do not reflect this current request.
164. Separately, DWER has advised that this proposal would require revision/amendment of existing permits and works approvals in relation to this property.
165. Concerns continue in relation to impacts on the endangered Australasian Bittern that may arise from the requested changes. There is insufficient data from studies of this species to know their tolerance of disturbance and what if any impact the requested changes to the operating conditions may have. A continued precautionary approach is recommended.

## ALTERNATE OPTIONS

166. Council has the following alternate options in relation to this item, which are:
  - a) To approve the request to amend condition 4 and delete condition 17 of P2160670. This would allow year-round operation of all aspects of the extractive industry without a weight limit on material extracted from the site and also remove the current limit of eighty-four (84) laden vehicles removing lime from the lot over a seven (7) day period with a maximum of twenty (20) vehicles on any one (1) day.
  - b) To approve one or the other of the proposed changes.
  - c) If choosing either of the above options, Council may consider imposing additional conditions to address potential impacts from the development.
167. If the recommendation to refuse is followed, the requested changes will not apply and control over the land use onsite will continue under the existing conditions 4 and 17 previously set by Council in December 2023.

## CONCLUSION

168. If the proposed changes are considered to constitute a new application due to the significant intensification of use, the City and Council have no discretion to approve it, as the land use is classified as an 'X' (not permitted) under the Local Planning Scheme in the Environmental Conservation Zone.
169. However, if it is instead considered a variation to the existing non-conforming use, the proposed year-round operation would still result in unaddressed impacts on and beyond the site. The only mitigation currently in place is through the existing conditions of approval.
170. Therefore, it is recommended that Council refuse the proposed changes to Condition 4 and the deletion of Condition 17 of P2160670 and retain the existing conditions that manage this non-conforming land use.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme No.2</i></li> <li>2. <i>Local Planning Scheme No.1</i></li> <li>3. <i>Planning and Development (Local Planning Schemes) Regulations 2015</i></li> <li>4. <i>DIS376 from Ordinary Council Meeting December 2023</i></li> <li>5. <i>Environmental Protection (Noise) Regulations 1997</i></li> <li>6. <i>State Planning Policy 2.4 – Planning for Basic Raw Materials</i></li> <li>7. <i>State Planning Policy 2.4 – Planning for Basic Raw Materials Guidelines</i></li> <li>8. <i>City of Albany Extractive Industries Local Law 2009</i></li> </ol>
<b>File Number</b>	:	A200151
<b>Previous Reference</b>	:	DIS047, OCM September 2017 DIS106, OCM July 2018 DIS376, OCM December 2023

## DIS440: DRAFT LOCAL PLANNING POLICY 1.8 ELECTRIC VEHICLE CHARGING INFRASTRUCTURE

<b>Land Description</b>	: City of Albany
<b>Proponent / Owner</b>	: City of Albany
<b>Business Entity Name</b>	: City of Albany
<b>Attachments</b>	: Draft Local Planning Policy 1.8: Electric Vehicle Charging Infrastructure
<b>Report Prepared By</b>	: Senior Planning Officer
<b>Authorising Officer:</b>	: Executive Director Infrastructure, Development and Environment

### STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making its decision, Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2019* (the Planning Strategy) and *Strategic Community Plan – Albany 2032*.
3. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
  - **Pillar:** Planet
  - **Outcome:**
    - Shared responsibility for climate action
  - **Pillar:** Place
  - **Outcome:**
    - A safe, sustainable and efficient transport network.
    - Responsible growth, development and urban renewal.

#### In Brief:

- Draft Local Planning Policy 1.8 Electric Vehicle Infrastructure (LPP1.8) has been prepared to encourage the provision of EV charging infrastructure for new developments within the City of Albany.
- Council is requested to endorse the draft LPP1.8 for advertising.

### RECOMMENDATION

**DIS440: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

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

**THAT Council, in pursuance of Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to ENDORSE draft Local Planning Policy 1.8 Electric Vehicle Charging Infrastructure for the purpose of advertising.**

**CARRIED 7-4**

#### Record of Vote

Against the Motion: Councillors Lionetti, Brough, McKinley and Baesjou

DIS440: COMMITTEE RECOMMENDATION

MOVED: MAYOR STOCKS

SECONDED: COUNCILLOR SUTTON

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 7-2

**Record of Vote**

Against the Motion: Councillors Baesjou and McKinley

DIS440: AUTHORISING OFFICER RECOMMENDATION

THAT Council, in pursuance of Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, resolves to ENDORSE draft Local Planning Policy 1.8 Electric Vehicle Charging Infrastructure for the purpose of advertising.

**BACKGROUND**

4. The [National Electric Vehicle Strategy](#) sets a vision to increase the uptake of Electric Vehicles (EVs) to reduce emissions and improve the wellbeing of Australians. This includes objectives and initiatives which relate to establishing infrastructure and making it easy to charge.
5. The State Government released the [State Climate Policy and State Electric Vehicle Strategy](#) in November 2020 to prepare for the transition to low and zero-emission vehicles and maximise economic, social and environmental benefits to WA. A priority area of action in the strategy is to implement and facilitate the provision of EV infrastructure, including the charging stations.
6. There are both federal and state-based incentives available for the purchase of electric vehicles, with sales of electric vehicles in Australia increasing by more than 160% in 2023 compared to 2022.
7. EV sales are now responsible for 7.7% of all new vehicle sales in Australia with this figure forecast to rise by 9.66% per year up to 2029.
8. The increase in usage of EVs assists in reducing greenhouse gas emissions, as well as improve air quality, amenity, and provide potential electricity grid benefits for the community.
9. There are broadly three levels of charging power as follows:
  - Level 1 General power outlet:  
A place in a wall to connect electrical equipment to the electricity supply, a common household socket/plug. This is commonly known as trickle charging.
  - Level 2 AC-charger:  
Dedicated chargers with their own plug or socket. Includes most high-powered wall-chargers.
  - Level 3 DC-charger:  
Supercharging and ultra-fast direct current charging.
10. EV charging infrastructure can range from 2.3 kilowatts (kW) which typically takes more than 8 hours to fully charge an EV, through to greater than 350kW chargers that can take less than 20 minutes. Estimated charge times also vary depending on factors including the type of charger and plug, make of vehicle, battery and technology specifications.

11. The role of planning in implementing EV charging infrastructure across the state is to provide guidance on appropriate locations and development standards for different land uses, and to facilitate the timely delivery of infrastructure to ensure an efficient EV charging network.
12. The Western Australian Planning Commission (WAPC) published a Position Statement to encourage the provision of EV charging infrastructure in new developments and outlining recommended provisioning ratios by development type.

## **DISCUSSION**

13. Draft LPP1.8 sets out provisioning ratios for EV charging infrastructure based on the WAPC Position Statement, with minor adjustments to improve clarity and better align with the local context. The provisioning ratios are outlined as guidance only, to encourage proponents to implement EV charging infrastructure in new proposals or significant redevelopment projects.
14. Retrofitting to accommodate EV charging infrastructure can be challenging, and therefore the draft policy has been prepared to assist proponents in 'futureproofing' designs for new residential and commercial developments such as multi-storey apartment complexes, office buildings, carparks and shopping centres.
15. As the objective of the draft policy is to provide guidance and recommendations only, where EV Charging Infrastructure is not incorporated within a new development or significant redevelopment proposal, it would not be considered a variation to the requirements.
16. Draft LPP1.8 also recommends identification and/or signage being provided including directional signs and bay markings, especially where bays are located within a larger car park and/or not immediately visible from entry and exit points.
17. Provision of EV charging infrastructure in new development or significant redevelopment proposal will contribute to the overall parking provided. The draft policy does not vary or currently contain incentives for providing EV charging infrastructure in lieu of the minimum parking standards set out under City of Albany Local Planning Scheme No. 2 (LPS2), and/or any applicable local planning policy, local development plan, design guidelines or other relevant planning document.
18. Incentives for provisioning of EV charging infrastructure in new developments or significant redevelopments were not explored in the development of the draft policy. Should Council request staff to explore incentives further, it is recommended that this would form part of a later substantive review to provide an opportunity for developers and the local community to become accustomed to EV charging facilities in the interim (should Council endorse the draft policy for advertising and final adoption).

## **GOVERNMENT & PUBLIC CONSULTATION**

19. Should Council resolve to support draft LPP1.8 for advertising, a notice of the proposed policy will be placed in a newspaper circulating in the LPS2 area and published on the City of Albany website. The notice is required to outline the following:
  - a) Where the draft Local Planning Policy can be inspected.
  - b) The subject and nature of the draft Local Planning Policy; and
  - c) In what form and during what period (21 days from the day the notice is published) submissions may be made.
20. Following closure of the submission period, the local government is to:
  - a) Review the draft Local Planning Policy in light of any submissions made; and
  - b) Resolve to adopt the Local Planning Policy with or without modification, or not to proceed with the Local Planning Policy.

## STATUTORY IMPLICATIONS

21. Voting requirement for this item is **Simple Majority**.
22. Consideration of draft new LPPs requires resolution of Council for endorsement to advertise and final adoption following advertising, with or without modifications, in accordance with the Planning Regulations.
23. Should Council resolve to adopt draft LPP1.8, with or without modification, a notice must be published as per cl. 87 of the Planning Regulations.

## POLICY IMPLICATIONS

24. There are no policy implications relating to endorsing the proposed LPP1.8 for advertising.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputational:</b> <i>Approving draft LPP1.8 for advertising could result in a community misconception that the City is seeking to add another layer of 'red tape' to the planning process.</i>	<i>Possible</i>	<i>Minor</i>	<i>Low</i>	<i>Policy lists provisioning rates for EV charging infrastructure as recommendation only.</i>
<b>Opportunity:</b> <i>To encourage provision of infrastructure to assist the transition the electric vehicles and assist in future proofing new developments.</i>				

## FINANCIAL IMPLICATIONS

26. There are no financial implications beyond what will be used for advertising.

## LEGAL IMPLICATIONS

27. There are no legal implications relating to endorsing the proposed draft LPP1.8 for advertising.

## ENVIRONMENTAL CONSIDERATIONS

28. There are no environmental implications relating to endorsing the proposed draft LPP1.8 for advertising.

## ALTERNATE OPTIONS

29. Council has the following alternate options in relation to this item, which are:
  - To resolve to proceed with advertising the policy without modification;
  - To resolve to proceed with advertising the policy subject to modification; and
  - To resolve not to proceed with advertising the policy.

## CONCLUSION

30. Staff recommend Council resolve to endorse the *draft LPP 1.8 Electric Vehicle Charging Infrastructure* for advertising.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. City of Albany Local Planning Scheme No. 2</li> <li>2. Planning and Development (Local Planning Schemes) Regulations 2015</li> <li>3. <a href="#">WAPC Position Statement: Electric Vehicle Charging Infrastructure</a></li> </ol>
<b>File Number (Name of Ward)</b>	:	All
<b>Previous Reference</b>	:	N/A



**DIS441: PLANNING AND BUILDING REPORTS APRIL 2025**

**Proponent / Owner** : City of Albany  
**Attachments** : Planning and Building Reports April 2025  
**Report Prepared By** : Senior Information Officer – Development Services  
**Authorising Officer:** : Manager Development Services

**RECOMMENDATION**

**DIS441: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: DEPUTY MAYOR TERRY**  
**SECONDED: COUNCILLOR BAESJOU**

**THAT the Planning and Building Reports for April 2025 be RECEIVED.**

**CARRIED 11-0**

## **DIS442: PROVISION OF PUBLIC TOILET, BBQ AND FISH CLEANING STATION CLEANING SERVICES**

<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: Confidential Attachment Under Separate Cover
<b>Report Prepared By</b>	: Operations Administration Coordinator
<b>Authorising Officer:</b>	: Executive Director Infrastructure Development and Environment

### **STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Pillar:** Place. A responsibly planned city that is attractive, vibrant and well connected.
  - **Outcome:** Responsible growth, development and urban renewal.

#### **In Brief:**

- Following a competitive tender process, Council approval is sought to award the tender for the Contract C25008 - Provision of Public Toilet, BBQ and Fish Cleaning Station Cleaning Services.
- The contract shall be in force for a period of five (5) years from 1 July 2025, in accordance with the Specifications to the Principal's satisfaction.
- Tendered prices were provided on both a schedule of rates and lump sum basis, fixed until 30 June 2026. Price adjustments beyond this date are only permitted in line with Fair Work Commission variations under the Cleaning Services Award.

### **RECOMMENDATION**

**DIS442: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR TRAILL**  
**SECONDED: DEPUTY MAYOR TERRY**

**THAT Council AWARD Contract C25008 – Provision of Public Toilet, BBQ and Fish Cleaning Station Cleaning Services to Brightmark Group Pty Ltd as recommended by the evaluation panel in the Confidential Briefing Note attached to this report.**

**CARRIED 10-1**

#### **Record of Vote**

Against the Motion: Councillor Lionetti

## BACKGROUND

2. The City's current contract with CGS Quality Cleaning Services, in place for ten years, expires on 30 June 2025.
3. This contract included public toilet, barbecue, and fish cleaning station services, as well as roadside litter collection and footpath cleaning.
4. Following a review, the new contract will cover only the public toilet, barbecue, and fish cleaning station cleaning.
5. A separate contract will be established for roadside litter collection and high- and low-pressure cleaning.
6. Footpath cleaning, previously part of the original contract, has been transferred by variation to the existing Car Park, Pathway, and Boardwalk Sweeping contract, which was established during the life of the cleaning contract.
7. A new contract is required for the ongoing provision of public toilet, barbecue, and fish cleaning station cleaning services. Tenders have been called under C25008 – Provision of Public Toilet, BBQ and Fish Cleaning Station Cleaning Services.
8. The tender covers scheduled and reactive cleaning services for public amenities across the municipality, excluding Wellstead.
9. Tenderers are expected to provide cost-effective, consistent, and reliable services that meet the City's needs, support a high standard of health, environmental, and safety compliance, and enhance the City's reputation.
10. The contract also aims to support local economic development and job creation.

## DISCUSSION

11. A total of fifty (50) tender documents were issued by the City of Albany.
12. Five (5) completed tender documents were submitted on/before the advertised closing date and time. However, one (1) of those tendered submissions was non-conforming and so only four (4) were evaluated.

### Evaluation of Tenders

13. The tender panel evaluated tenders using the weighted criteria methodology across six (6) areas, shown in Table 1.

**Table 1 – Evaluation Criteria**

Criteria	% Weighting
Cost	35%
Relevant Experience	10%
Tenderer's Resources	25%
Demonstrated Understanding	25%
Corporate Social Responsibility	5%
<b>Total</b>	<b>100%</b>

14. The following Table 2 summaries the tenders and the overall evaluation scores applicable.

**Table 2 – Summary of Tender Submissions**

<b>Tenderer</b>	<b>Weighted Score</b>
Brightmark Group Pty Ltd	762.76
Tenderer B	709.18
Tenderer C	502.69
Tenderer D	292.03

15. Brightmark Group Pty Ltd ranked highest with the highest total weighted score.

## **GOVERNMENT & PUBLIC CONSULTATION**

16. A request for tenders was published in the West Australian on 2 April 2025, and the Albany Extra on 4 April 2025.

## **STATUTORY IMPLICATIONS**

17. Regulation 11 of the Regulations requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$250,000.00.
18. 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.
19. Regulation 19 of the Regulations requires Council to advise each tenderer in writing of Council's decision.
20. Voting Requirement: **Simple Majority**

## **POLICY IMPLICATIONS**

21. The City of Albany Purchasing Policy (Tenders and Quotes) and Buy Local Policy (Regional Price Preference) are applicable to this item.

## **RISK IDENTIFICATION & MITIGATION**

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

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<b>Service Delivery Interruption</b> <i>Risk: There is a risk that if a Tenderer is not awarded this contract the City may suffer a prolonged interruption of service.</i>	Possible	Severe	High	That Council are provided full disclosure of Tenderer's resources so the contract can be awarded to avoid any interruption to the service.
<b>Legal &amp; Compliance</b> <i>Risk: If the contract was not awarded there could be a serious breach of Health Regulations which could be investigated by a third party and might lead to prosecution or fines.</i>	Possible	Moderate	Medium	Council can avoid a breach by awarding the Contract to maintain hygiene standards.
<b>Community</b> <i>Risk: The community rely on this service especially the vulnerable suffering homelessness.</i>	Major	Almost Certain	Extreme	A continued service is maintained to especially support our vulnerable community.
<b>People Health &amp; Safety</b> <i>Risk: Medical treatment necessary by users of the facilities because they are unhygienic.</i>	Likely	Moderate	High	Awarding the contract to a reputable Contractor will ensure facilities are maintained.
<b>Reputation</b> <i>Risk: Tourists and the community unhappy with Council for not maintaining the facilities which could cause substantial public embarrassment, high impact news profile with third party actions if the cleaning service isn't maintained.</i>	Almost Certain	Major	Extreme	Awarding the contract to a reputable Contractor will ensure facilities are maintained.
<b>Opportunity:</b> To engage a contractor to protect public amenities from damage and offer a service to the community and tourists which meets community expectations.				

### FINANCIAL IMPLICATIONS

23. An annual budget will be required for this cleaning service. The cost (weighted 35%) was calculated by averaging the Cost Score for both the lump sum and schedule of rates.

### LEGAL IMPLICATIONS

24. Nil

### ENVIRONMENTAL CONSIDERATIONS

25. Nil

### ALTERNATE OPTIONS

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

### CONCLUSION

27. It is recommended, based on the evaluation scoring, clarification and financial check processes, that the tender be awarded to Brightmark Group Pty Ltd.

<b>Consulted References</b>	:	<ul style="list-style-type: none"><li><i>Local Government Act 1995</i></li><li><i>Local Government (Functions and General) Regulations 1996</i></li><li><i>Council Policy: Purchasing Policy (Tenders and Quotes)</i><ul style="list-style-type: none"><li><i>Tender Procedure</i></li><li><i>Evaluation Procedure (Tenders and Quotes)</i></li></ul></li><li><i>Council Policy: Buy Local Policy (Regional Price Preferences)</i></li></ul>
<b>File Number</b>	:	C25008
<b>Previous Reference</b>	:	C14036

**PR016: CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW  
COMMITTEE-APPOINTMENT OF INDEPENDENT FACILITATOR**

**Proponent / Owner** : City of Albany.  
**Attachments** : **Confidential: Evaluation Scores**  
CEO Performance Review Process Policy  
**Report Prepared By** : PA to Mayor and Councillors  
**Authorising Officer:** : Manager Governance & Risk

**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Pillar:** Leadership.
  - **Outcomes:** Proactive, visionary leaders who are aligned with community needs and values
  - **Objectives:** Provide strong, accountable leadership

**In Brief:**

- In accordance with the CEO Performance Review Process Policy, an independent, external person must be appointed by resolution of Council to facilitate the CEO Performance Review.
- Council is requested to appoint the preferred consultant.

**RECOMMENDATION**

**PR016: RESOLUTION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR TRAILL**  
**SECONDED: COUNCILLOR MCKINLEY**

**THAT Council ACCEPT the quotation recommended by the evaluation panel as detailed in the confidential attachment to this report and APPOINT Learning Horizons to facilitate the CEO Performance Review process for the 2025-26 and 2026-27 financial years.**

**CARRIED 11-0**

**BACKGROUND**

2. The *Local Government (Administration) Regulations 1996* prescribes the Model Standards for CEO Recruitment, Performance and Termination (Part 4 – Local government employees).
3. The City of Albany's CEO Performance Review Process Policy and Clause 8, Performance Criteria and Review of Performance of the CEO's employment contract are in accordance with the Model Standards, contain the requirements of an annual review of the CEO's performance and define the review process.

## DISCUSSION

4. The City of Albany's CEO Performance Review Process Policy requires that the CEO Performance Review Panel which undertakes the review must be facilitated by an independent, external person appointed by resolution of Council.
5. A Request for Quote for appropriately qualified facilitators opened on 28 March 2025.
6. The Request for Quote closed at 2.00pm (AWST) on 18 April 2025.
7. A total of two quotes were received.

## Evaluation of Quotes

8. The Quotation Evaluation Panel evaluated the quotes received using the weighted methodology across five areas:

**Table 1: Evaluation Criteria**

Criteria	% Weighting
Cost	20%
Environmental, Social and Governance (ESG)	5%
Demonstrated Ability to Meet Timeframes	25%
Demonstrated Experience	25%
Demonstrated Understanding	25%
<b>Total</b>	<b>100%</b>

9. The following Table 2 summarises the overall evaluation scores.

**Table 2-Summary of Submissions**

Quote	Weighted Score
Quotation A	89.47
Learning Horizons	110.53

10. Learning Horizons was ranked highest total weighted score.

## GOVERNMENT & PUBLIC CONSULTATION

11. A Request for Quote (RFQ) was published on the City's website.

## STATUTORY IMPLICATIONS

12. Voting requirement for this item is **Simple Majority**.

## POLICY IMPLICATIONS

13. The appointment of an independent, external facilitator is to be made in accordance with the CEO Performance Review Process Policy.

## 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>Legal. Risk:</b> <i>The statutory and contractual process compromised</i>	<i>Unlikely</i>	<i>Major</i>	<i>High</i>	<i>Ensure that the procurement and appointment of an independent facilitator is conducted in accordance with relevant legislation and internal policies.</i>

## FINANCIAL IMPLICATIONS

15. Nil. The cost of an independent, external facilitator is included in the adopted Budget.

## LEGAL IMPLICATIONS

16. Refer to the risk identification and mitigation section of this report, and the requirements detailed in the *Local Government Act 1995* (s. 539A(1)) and the *Local Government (Administration) Regulations 1996*.

## ENVIRONMENTAL CONSIDERATIONS

17. Not applicable.

## ALTERNATE OPTIONS

18. Council may:
- Accept the Quote from Learning Horizons as recommended by the Evaluation Panel;
  - Accept Quote A; or
  - Not accept any quote.

## CONCLUSION

19. It is recommended, based on the evaluation scoring, that the Quote from Learning Horizons be accepted.

<b>Consulted References</b>	:	<ul style="list-style-type: none"> <li><i>Local Government Act 1995</i></li> <li><i>Local Government (Administration) Regulations 1996</i></li> <li><a href="#">CEO Performance Review Process Policy</a></li> </ul>
<b>File Number</b>	:	Personnel File
<b>Previous Reference</b>	:	OCM Report Item PR015



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

CCS714: C25003: Harvest and Sale of Bluegum Timber Stock

**18. CLOSURE**

There being no further business the Mayor declared the meeting closed at **8.32PM**.

A handwritten signature in black ink that reads "Greg Stocks". The signature is written on a light blue rectangular background with a dotted line underneath the text.

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Gregory B Stocks  
**MAYOR**