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# AGENDA

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**Ordinary Meeting of Council**

**Tuesday 24 June 2014**

6.00pm

City of Albany Council Chambers

**CITY OF ALBANY  
COMMUNITY STRATEGIC PLAN (ALBANY 2023)**

**VISION**

Western Australia's most sought after and unique regional city to live, work and visit.

**VALUES**

All Councillors, Staff and Volunteers at the City of Albany will be...

**Focused: on community outcomes**

This means we will listen and pay attention to our community. We will consult widely and set clear direction for action. We will do what we say we will do to ensure that if it's good for Albany, we get it done.

**United: by working and learning together**

This means we will work as a team, sharing knowledge and skills. We will build strong relationships internally and externally through effective communication. We will support people to help them reach their full potential by encouraging loyalty, trust, innovation and high performance.

**Accountable: for our actions**

This means we will act professionally using resources responsibly; (people, skills and physical assets as well as money). We will be fair and consistent when allocating these resources and look for opportunities to work jointly with other directorates and with our partners. We will commit to a culture of continuous improvement.

**Proud: of our people and our community**

This means we will earn respect and build trust between ourselves, and the residents of Albany through the honesty of what we say and do and in what we achieve together. We will be transparent in our decision making and committed to serving the diverse needs of the community while recognising we can't be all things to all people.

ORDINARY COUNCIL MEETING  
 AGENDA –24/06/2014  
 \*\* REFER DISCLAIMER \*\*

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**1. DECLARATION OF OPENING**

**2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS**

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

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

*We would also like to pay respect to Elders both past and present”.*

**3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE**

**Mayor**

Mayor D Wellington

**Councillors:**

Breaksea Ward

V Calleja JP

Breaksea Ward

R Hammond

Frederickstown Ward

C Dowling

Frederickstown Ward

G Stocks

Kalgan Ward

B Hollingworth

Kalgan Ward

J Price

Vancouver Ward

S Bowles

Vancouver Ward

N Williams

West Ward

G Gregson

West Ward

A Goode JP

Yakamia Ward

R Sutton

Yakamia Ward

A Hortin JP

**Staff:**

Deputy Chief Executive Officer

G Adams

Executive Director Planning and

Development Services

D Putland

Executive Director Community  
Services

C Woods

Executive Director Works and  
Services

M Thomson

Minutes

J Williamson

**Apologies:**

Chief Executive Officer

G Foster

**4. DISCLOSURES OF INTEREST**

<b>Name</b>	<b>Committee/Report Item Number</b>	<b>Nature of Interest</b>

**5. REPORTS OF MEMBERS**

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

**7. PUBLIC QUESTION TIME**

**8. APPLICATIONS FOR LEAVE OF ABSENCE**

**9. PETITIONS AND DEPUTATIONS**

**10. CONFIRMATION OF MINUTES**

**DRAFT MOTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the minutes of the Ordinary Council Meeting held on 27 May 2014, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.**

**11. PRESENTATIONS**

**12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS**

**CSF089: FINANCIAL ACTIVITY STATEMENT – APRIL 2014**

**Appendices** : Financial Activity Statement  
**Responsible Officer** : Deputy Chief Executive Officer (G Adams)

**Responsible Officer's Signature:**



**CSF089: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council RECEIVE the Financial Activity Statement for the period ending 30 April 2014.**

CSF089: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR PRICE

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

CSF089: COMMITTEE RECOMMENDATION

THAT Council RECEIVE the Financial Activity Statement for the period ending 30 April 2014.

**BACKGROUND**

1. The Statement of Financial Activity for the period ending 30 April 2014 has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Activity, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

**DISCUSSION**

3. In accordance with section 34(1) of the *Local Government (Financial Management) Regulations 1996*, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
4. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide elected members with a greater insight in relation to the ongoing financial performance of the local government.
5. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. Variations in excess of \$50,000 are reported to Council.

6. These financial statements are still subject to further yearend adjustments and have not been audited by the appointed auditor.

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

### **STATUTORY IMPLICATIONS**

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

### **FINANCIAL IMPLICATIONS**

8. Expenditure for the period ending 30 April 2014 has been incurred in accordance with the 2013/14 proposed budget parameters. Details of any budget variation in excess of \$50,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

### **POLICY IMPLICATIONS**

9. The City’s 2013/14 Annual Budget provides a set of parameters that guides the City’s financial practices.
10. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

<b>File Number (Name of Ward)</b>	FM.FIR.2 - All Wards
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**CSF090: LIST OF ACCOUNTS FOR PAYMENT – MAY 2014**

**File Number (Name of Ward)** : FM.FIR.2 - All Wards  
**Appendices** : List of Accounts for Payment  
**Responsible Officer** : Deputy Chief Executive Officer (G Adams)

**Responsible Officer's Signature:**



**CSF090: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council RECEIVE the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 May 2014 totalling \$8,188,011.92**

**CSF090: COMMITTEE RECOMMENDATION**

MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR GREGSON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

**CSF090: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council RECEIVE the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 May 2014 totalling \$8,188,011.92

**BACKGROUND**

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

**DISCUSSION**

2. The table below summarises the payments drawn from the municipal fund for the period ending 15 May 2014. Further details of the accounts authorised for payment by the Chief Executive Officer is included as an Attachment to this report.

**Municipal Fund**

Trust	\$5,000.00
Credit Cards	\$9,855.75
Payroll	\$1,668,200.94
Cheques	\$87,153.66
Electronic Funds Transfer	\$6,417,801.57
<b>TOTAL</b>	<b><u>\$8,188,011.92</u></b>

3. As at 15 May 2014, the total outstanding creditors, stands at **\$358,141.49** and made up follows:

Current	\$320,413.91
30 Days	\$38,224.13
60 Days	\$0.00
90 Days	-\$496.55
<b>TOTAL</b>	<b>\$358,141.49</b>

4. **Cancelled cheques:** - 29790 - Incorrect creditor used replaced with 29795. 29701 - Incorrect creditor used replaced with B-Pay Payment EFT90814.

#### **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.

#### **FINANCIAL IMPLICATIONS**

8. Expenditure for the period to 15 May 2014 has been incurred in accordance with the 2013/2014 budget parameters.

#### **POLICY IMPLICATIONS**

9. The City's 2013/2014 Annual Budget provides a set of parameters that guides the City's financial practices.

#### **SUMMARY CONCLUSION**

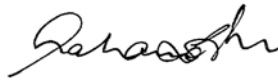
10. That list of accounts have been authorised for payment under delegated authority.

<b>File Number (Name of Ward)</b>	FM.FIR.2 - All Wards
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**CSF091: DELEGATED AUTHORITY REPORTS**

**Attachments** : Common Seal and Executed Document Report  
**Responsible Officer** : Chief Executive Officer (G Foster)

**Responsible Officer's Signature:**



**CSF092: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council RECEIVE the Delegated Authority Reports up until 15 May 2014.**

CSF092: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON  
SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

CSF091: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Delegated Authority Reports up until 15 May 2014.

**CSF092: COUNCIL POLICY POSITION : RESPONSE TO APPEALS TO THE STATE ADMINISTRATIVE TRIBUNAL**

Proponent : City of Albany  
Attachments :  
Responsible Officer(s) : Chief Executive Officer (G. Foster)  
Deputy Chief Executive Office (G. Adams)

Responsible Officer's Signature:



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2017:
  - a. **Key Theme:** 5. Civic Leadership.
  - b. **Strategic Objectives:**
    - 5.1. To establish and maintain sound business and governance structures.
    - 5.3. To engage effectively with our community.
  - c. **Strategic Initiative:** Nil

**In Brief:**

- There is currently no policy.
- Policy position prepared for review and development by Committee at the request of the Chief Executive Officer.

**RECOMMENDATION**

**CSF092: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT Council ADOPT the Council Policy Position: Response to Appeals to the State Administrative Tribunal, detailed in the body of the report, subject to the following amendments:**

***"7b. Council decision contrary to the Officer's recommendation. Where a decision of the Council is the subject of an application for review to the SAT and that decision was contrary to the Officer's recommendation then, in the interests of the Council and the Officer:***

***(i) Unless otherwise determined by Council, the mover and seconder of the motion ~~will be automatically appointed as the elected member representatives will have first option to represent Council.~~***

***(ii) Council will be represented by a private consultant or a person appointed by the ~~Executive Director Planning and Development Services or Manager Planning Services to represent the City at the SAT hearing relevant Executive Director.~~***

***(iv) City officers shall provide all necessary ~~public~~ information to the nominated Members of Council, consultant or advocate to assist in the compilation of a response or a witness statement."***

CSF092: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON  
SECONDED: COUNCILLOR CALLEJA

THAT the Committee RECEIVE the proposed policy position and recommend adoption by Council pending the following amendments:

*"7b. Council decision contrary to the Officer's recommendation. Where a decision of the Council is the subject of an application for review to the SAT and that decision was contrary to the Officer's recommendation then, in the interests of the Council and the Officer:*

*(i) Unless otherwise determined by Council, the mover and seconder of the motion ~~will be automatically appointed as the elected member representatives~~ will have first option to represent Council.*

*(ii) Council will be represented by a private consultant or a person appointed by the ~~Executive Director Planning and Development Services or Manager Planning Services~~ to represent the City at the SAT hearing relevant Executive Director.*

*(iv) City officers shall provide all necessary ~~public~~ information to the nominated Members of Council, consultant or advocate to assist in the compilation of a response or a witness statement."*

CARRIED 7-0

CSF092: RESPONSIBLE OFFICER RECOMMENDATION

THAT the Committee RECEIVE the proposed policy position and if supported recommend adoption by Council.

**BACKGROUND**

2. Council decisions are at times subject of applications for review to the State Administrative Tribunal (SAT).
3. Such applications can be made where the Council has made a decision that was consistent with or contrary to the recommendation of a City Officer.
4. Where Council makes a decision that is contrary to the Officer's recommendation, the Local Government (Administration) Regulations 1996 regulation 11(da) states:

*"11 The content of minutes of a meeting of a council or a committee is to include –*

*(da) written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee...."*

## DISCUSSION

5. **Purpose:** The purpose of this policy is to clarify the role, responsibility and accountability of the Council and City Officers in respect to decisions it makes which are the subject of an application for review to the SAT.
6. The Chief Executive Officer believes that the following position is necessary and is in the best interests of both the Council and City Officers.
7. **Position:**
  - a. Council decision consistent with Officer's recommendation:
    - (i) Where a Council decision is the same or essentially the same as an Officer's recommendation, or corrects or improves the content of an Officer's recommendation, then the responsible Officer or another Officer nominated by an Executive Director or the Chief Executive Officer, shall provide a written response to an application for review on behalf of the Council or attend a mediation or tribunal hearing as required in order to represent the Council's position.
    - (ii) Elected Members attending mediation sessions do so on a voluntary basis as community members and as observers; not as a representative of Council.
    - (iii) The outcome of any mediation relating to a decision made at a Council meeting conducted as part of an application for review is to be reported to Council so that a formal response to the SAT on the mediation can be made.
  - b. Council decision contrary to the Officer's recommendation: Where a decision of the Council is the subject of an application for review to the SAT and that decision was contrary to the Officer's recommendation then, in the interests of the Council and the Officer:
    - (i) ~~Unless otherwise determined by Council, the mover and seconder of the motion will be automatically appointed as the elected member representatives will have first option to represent Council.~~
    - (ii) ~~Council will be represented by a private consultant or a person appointed by the Executive Director Planning and Development Services or Manager Planning Services to represent the City at the SAT hearing relevant Executive Director.~~
    - (iii) Council's elected member representatives will prepare the brief for the appointment of the consultant or advocate, with the assistance of Council officers, as determined appropriate by the Chief Executive Officer.
    - (iv) ~~Council officers shall provide all necessary public information to the nominated Members of the Council, consultant or advocate to assist in the compilation of a response or a witness statement.~~
    - (v) In the event of City officers being subpoenaed, Council acknowledges that officers will be required to give evidence at a SAT hearing in support of the officer's recommendation, acknowledging that the evidence given may be contrary to the Council decision the subject of the appeal.

## GOVERNMENT AND PUBLIC CONSULTATION

8. Policy position modelled of similar local government sector policy positions, such as the City of Cockburn and City of Mandurah.

## STATUTORY IMPLICATIONS

9. *Local Government (Administration) Regulations 1996 regulation 11.*

## POLICY IMPLICATIONS

10. This proposed policy position will compliment the current delegated power to the Chief Executive Officer and Executive Director Planning & Development Services.

Extract from delegations register: Authority to deal with Development Control, Enforcement and Legal Action (Including Appeals and SAT Matters).

- Make recommendations for appointment of consultants/legal representatives for SAT Matters; and
- Mediate matters before the State Administrative Tribunal (SAT).

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation.</b> Council decisions that are contrary to an Officer's Recommendation are not represented by the decision maker at SAT.	Unlikely	Moderate	Medium	Continue to provide no Elected Member representation at SAT appeals and therefore delegate the justification for the decision accordingly.

## FINANCIAL IMPLICATIONS

12. Elected member attendance at SAT Appeals will have a financial implication.

## LEGAL IMPLICATIONS

13. There are no legal implications related to this report.

## ENVIRONMENTAL CONSIDERATIONS

14. There are no direct environmental considerations related to this report. However, additional carbon will be utilised transporting additional Council representative to appeals held in Perth.

## SUMMARY CONCLUSION

15. It is recommended that the Committee recommend to Council to form a policy position on this matter.

<b>Consulted References</b>	:	<i>Local Government Act 1995, Local Government (Administration) Regulations 1996</i>
<b>File Number (Name of Ward)</b>	:	<i>CM.STD.7</i>
<b>Previous Reference</b>	:	<i>Nil</i>

**CSF093: WATC – EXECUTION OF LOCAL GOVERNMENT MASTER LENDING AGREEMENT (LGMLA)**

- Proponents** : City of Albany (ABN 94 717 875 167) (**Borrower**)  
Western Australian Treasury Corporation (ABN 22 300 359 323) (**Corporation**)
- Attachments** : Master Lending Agreement Between Western Australian Treasury Corporation and City of Albany dated as of 1<sup>st</sup> May 2014
- Responsible Officer(s)** : Deputy Chief Executive Officer (G. Adams)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates directly to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2017:
  - a. **Key Themes:** 5. Civic Leadership
  - b. **Strategic Objective:**  
5.1 To establish and maintain sound business and governance structures
  - c. **Strategic Initiative:** Nil

**In Brief:**

- For the LGMLA to be effective WATC requires that the City of Albany execute the LGMLA under its Common Seal as authorised by a resolution of the City of Albany.

**RECOMMENDATION**

**CSF093: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT the City of Albany hereby RESOLVES:**

- (i) That the City of Albany enters into a Master Lending Agreement with Western Australian Treasury Corporation as per the document tabled at this meeting.
- (ii) To approve the affixing of the Common Seal of the City of Albany to the said Master Lending Agreement in the presence of the Mayor and the Chief Executive Officer or an Agent or a Senior Employee of the City of Albany authorised by the Chief Executive Officer each of whom shall sign the document to attest the affixing of the Common Seal thereto; and
- (iii) That the Chief Executive Officer, Agent or any one of the Senior Employees of the City of Albany authorised by the Chief Executive Officer from time to time is authorised to sign schedule documents under the Master Lending Agreement and or to give instructions thereunder on behalf of the City of Albany.  
Dated\_\_\_\_\_.



**CSF093: COMMITTEE RECOMMENDATION**

MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR HORTIN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

**CSF093: RESPONSIBLE OFFICER RECOMMENDATION**

The City of Albany hereby RESOLVES:

- (iv) That the City of Albany enters into a Master Lending Agreement with Western Australian Treasury Corporation as per the document tabled at this meeting.
- (v) To approve the affixing of the Common Seal of the City of Albany to the said Master Lending Agreement in the presence of the Mayor and the Chief Executive Officer or an Agent or a Senior Employee of the City of Albany authorised by the Chief Executive Officer each of whom shall sign the document to attest the affixing of the Common Seal thereto; and
- (vi) That the Chief Executive Officer, Agent or any one of the Senior Employees of the City of Albany authorised by the Chief Executive Officer from time to time is authorised to sign schedule documents under the Master Lending Agreement and or to give instructions thereunder on behalf of the City of Albany.  
Dated \_\_\_\_\_

**BACKGROUND**

2. The City of Albany has been working with the Western Australian Treasury Corporation (WATC) to consolidate all existing loans under one Local Government Master Lending Agreement (LGMLA).

**DISCUSSION**

3. If the Council resolve to enter into a LGMLA, all existing loans and future borrowing will be swept under the one agreement.
4. This will remove the need for individual loan agreements to be executed under seal each time the City of Albany borrow from WATC and for referral to Council for resolution.
5. For the LGMLA to be effective WATC requires the City of Albany execute the LGMLA under its Common Seal as authorised by a resolution of Council.

**GOVERNMENT & PUBLIC CONSULTATION**

6. The City of Albany has been working with the WATC in order to facilitate the transition to a LGMLA.
7. The City's Manager Finance has been in regular communication with the WATC client relationship manager in respect to this agreement.

**STATUTORY IMPLICATIONS**

8. Nil

## POLICY IMPLICATIONS

9. The Delegated Authority Register will be amended accordingly. Noting that if the Chief Executive Officer is not available an Agent or a Senior Employee of the City of Albany authorised by the Chief Executive Officer can sign on his behalf.
10. It is recommended that this function is limited to the Deputy Chief Executive Officer and the Manager Finance.

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation. Council does not resolve to enter into a Local Government Master Lending Agreement</i>	<i>Possible</i>	<i>Insignificant</i>	<i>Low</i>	<i>Continue to enter into individual agreements and refer each undertaking for resolution of Council.</i>

## FINANCIAL IMPLICATIONS

12. Any borrowings under the LGMLA will be subject to WATC's credit approval policy at the time of the application, and the release of funds is subject to the issuance of a firm rate quote by WATC and its acceptance by an authorised signatory of the City of Albany.

## LEGAL IMPLICATIONS

13. This Agreement is governed by the law in force in the State. By signing this Agreement, the parties submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in the State.
14. This is a common contractual practice.

## ALTERNATE OPTIONS

15. There are two options:
  - a. Enter into the LGMLA; or
  - b. Continue with the current lending arrangements.

## ENVIRONMENTAL CONSIDERATIONS

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

## CONCLUSION

17. It is recommended that the Council resolves to enter into a Master Lending Agreement with Western Australian Treasury Corporation (as tabled – attached).

<b>Consulted References</b>	:	<i>Local Government Act 1995</i>
<b>File Number (Name of Ward)</b>	:	GR.STL.27 (All Wards)
<b>Previous Reference</b>	:	Nil

## CSF094: COUNCIL REVIEW OF DELEGATIONS REGISTER

**Proponent** : City of Albany  
**Attachments** : Draft Delegations Register 2014 (Version\_6.3)  
**Responsible Officer** : Deputy Chief Executive Officer (G. Adams)

**Responsible Officer's Signature:**



### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2017:
  - a. **Key Theme:** 5. Civic Leadership.
  - b. **Strategic Objectives:**
    - 5.1. To establish and maintain sound business and governance structures.
  - c. **Strategic Initiative:** Nil

### In Brief:

- Council review and adopt the Register of Delegations.

### RECOMMENDATION

**CSF094: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**That the delegations detailed in the Register of Delegations be ADOPTED.**

CSF094: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON  
SECONDED: COUNCILLOR GREGSON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 7-0

CSF094: COMMITTEE RECOMMENDATION

That the delegations detailed in the Register of Delegations be ADOPTED.

### BACKGROUND

2. Under the provisions of the *Local Government Act 1995*, a local authority may delegate some of its powers and duties to the Chief Executive Officer or Committee's of Council to help facilitate the many services it provides to the community.
3. At least once every financial year, the powers and duties delegated under the Local Government Act are required to be reviewed by the delegator.

## **DISCUSSION**

4. A register of Delegations of Authority is essential in order to inform the public of the activities, functions, powers and duties of the Local Government as well meeting the requirements of Section 5.46 of the *Local Government Act 1995* (the Act).
5. This Act requires the Chief Executive Officer (CEO) of the Local Government to keep a Register of Delegations made by the Council to a Committee or the Chief Executive Officer, and by the CEO to other employees.
6. The compilation of the content of this Register was prepared through references to the Act, the Complete Guide to The Local Government Act 1995 (which is a joint production of the Western Australian Municipal Association, the Institute of Municipal Management (WA Division) and the Western Australia Department of Local Government.
7. Section 5.42 of the Act allows Council to delegate to the Chief Executive Officer and/or Committee.
8. Delegations have been grouped by function.

## **GOVERNMENT AND PUBLIC CONSULTATION**

9. Detailed in the discussion section of the report.

## **STATUTORY IMPLICATIONS**

10. Detailed in the discussion section of the report.

### **Delegation to CEO**

11. Section 5.42 of the Act enables the delegation of some powers and duties to the Chief Executive Officer:

*"1) A local government may delegate to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties under this Act other than those referred to in section 5.43.*

*A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation."*

### **Delegation to Committees**

12. Section 5.16 and 5.17 of the Act enables the delegation of some powers and duties to a committee:

*"1) Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other than the power to delegate;*

*2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation."*

### **Delegations to be reviewed every financial year**

13. Under the provisions of section 5.46 (2) of the Act, delegations must be reviewed by the delegator at least once every financial year.

**Appointment of authorised persons**

14. Section 9.10 of the Act. The local government may, in writing, appoint persons or classes of persons to be authorised for the purposes of performing particular functions.

**Transfer of Authority Due to Absence**

15. Where an Officer not named has been appointed by Council or by an Officer authorised to make the appointment to act in a position to which the named Officer is appointed, the authority shall transfer to the Officer acting as appointed, for the duration of Council authorisation.
16. Where a named Officer holding a delegation is temporarily absent and no Officer has been appointed to act in the position, the authority will transfer to the relevant Executive Director or Senior Manager for the period of absence.

**Proposed, Amended Delegations**

17. New, deleted and proposed amendments are detailed in the version control section of the register.

**POLICY IMPLICATIONS**

18. Nil

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Legal &amp; Compliance. Non compliance with the City's statutory requirement to review the delegations every financial year.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Review and bring back to Council for adoption prior to 30 June 2014.</i>

**FINANCIAL IMPLICATIONS**

20. Nil.

**LEGAL IMPLICATIONS**

21. Refer to statutory implication section of report.

**ENVIRONMENTAL CONSIDERATIONS**

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

**SUMMARY CONCLUSION**

23. That the review delegations register (attached) be adopted.

<b>Consulted References</b>	:	<i>Local Government Act 1995.</i>
<b>File Number (Name of Ward)</b>	:	PE.AUT.1 (All Wards)
<b>Previous Reference</b>	:	OCM 17/07/2012 Report Item 1.4. OCM 18/09/2012, Report Item 1.1 OCM 6/04/2013 Report Item 4.5 OCM 18/06/2013 Report Item 2.9

**CSF095: CONTRACT C14013 – TENDER FOR IT HARDWARE PANEL  
CONTRACT**

**Responsible Officer(s):** : Deputy Chief Executive Office (G Adams)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the [City of Albany Strategic Community Plan 2023](#) and [Corporate Business Plan 2013-2017](#):
  - a. **Key Theme:** 5. Civic Leadership.
  - b. **Strategic Objective:** 5.1. To establish and maintain sound governance and business structures.
  - c. **Strategic Initiative:** 5.1.2. Systems Improvement.

**In Brief:**

- Request for Tender C14013 Panel of Suppliers – Supply of Information Technology Hardware replaces an existing contract for the purchase of IT Hardware and allows for the procurement of IT hardware across a range of categories.
- A decision is required in order to award the panel contract for a period of three years, with two one year options to extend (possible five years in total).

**RECOMMENDATION**

**CSF095: RESPONSIBLE OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council ACCEPT the tender responses from KLB Systems and WJ Moncrieff Pty Ltd and AWARD the panel contract for IT hardware supply.**

**BACKGROUND**

2. Previously the City had a contract in place for the procurement of IT hardware. An extension to this contract has been granted until a decision has been reached by Council.
3. It was flagged by the Procurement team that this contract was expiring, and as the current contract was undertaken via a quote process a new tender (C14013) to establish a panel contract of suppliers was issued in April 2014.
4. The City decided to establish a panel contract and test the market to determine whether the City was obtaining the best value for money.

**DISCUSSION**

5. The City of Albany advertised the tender from the 9th of April 2014 with a closing date of the 30th of April 2014.
6. The tender was advertised in The West Australian, Great Southern Weekender and on the City of Albany website.
7. Two tenders were submitted to the Procurement and Contracts Office on or before the stipulated closing date and time.
8. Evaluation of tender:
  - a. An analysis was carried out, based on tender submissions, to determine suitable candidates for the panel contract.
  - b. The evaluation panel evaluated submissions using the weighted criteria methodology. Criterion and weightings evaluated on:

<b>Cost (Electronically scored)</b>	45%
<b>Relevant Experience</b>	20%
<b>Relationship with Vendors</b>	15%
<b>Tenderer's Resources</b>	10%
<b>Demonstrated Understanding</b>	10%

9. On the basis of the total evaluation scored, with weightings as detailed above applied, the respondents scored as follows:

<b>Tenderer</b>	<b>Total weighted score</b>
<b>KLB Systems</b>	<b>647.18</b>
<b>WJ Moncrieff Pty Ltd</b>	<b>624.49</b>

10. Both the KLB Systems and the WJ Moncrieff Pty Ltd submissions addressed all areas satisfactorily, there were not deficiencies for the panel contract.

**GOVERNMENT & PUBLIC CONSULTATION**

11. There is no government or public consultation required for the award of the panel contract.



## STATUTORY IMPLICATIONS

12. "Regulation 11 of the *Local Government (Functions and General) Regulations 1996 (Regulations)* requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$100,000.

## POLICY IMPLICATIONS

13. Council Policy – Purchasing Policy (Tenders and Quotes) as it relates to purchases made through the tender process.

## RISK IDENTIFICATION & MITIGATION

14. The risk identification and categorisation relies on the City's [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Council rejects/fails to support recommendation for tender award</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Detailed Council Agenda Item.</i>
<i>Delayed establishment of the panel contract</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Award tender without delay to establish the panel contract to mitigate the risk.</i>

## FINANCIAL IMPLICATIONS

15. The value of this tender is in excess of \$500,000 and therefore the approval is referred to Council for consideration.
16. Quotes will be obtained from both KLB Systems and WJ Moncrieff Pty Ltd for future IT Hardware purchases where required to ensure the best possible price is obtained in each instance.

## LEGAL IMPLICATIONS

17. Contractual terms for all aspects of this project will need to be rigorous.

## ENVIRONMENTAL CONSIDERATIONS

18. There are no environmental considerations for this tender, however, green procurement consideration will be given to all future purchases made under this contract.

## ALTERNATE OPTIONS

19. The options are:
- Council ACCEPT the tender responses from KLB Systems and WJ Moncrieff Pty Ltd and award the panel contract for IT hardware supply;
  - Not Accept the tender responses from either respondent; or
  - Accept the tender responses from only one respondent.

## SUMMARY CONCLUSION

20. On reviewing the submissions, KLB Systems and WJ Moncrieff Pty Ltd were assessed as being suitable for the panel contract. Their submissions were well detailed and demonstrated a strong understanding of requirements.

21. It is recommended that Council ACCEPT the tender responses from KLB Systems and WJ Moncrieff Pty Ltd and award the panel contract for IT hardware supply.

<b>Consulted References</b>	:	Purchasing Policy CM.STD.7/NP072938_5
<b>File Number (Name of Ward)</b>	:	
<b>Previous Reference</b>	:	Not Applicable

**WS042: C14014 PROVISION OF PLUMBING SERVICES**

**Proponent** : City of Albany  
**Owner** : City of Albany  
**Responsible Officer(s):** : Executive Director Works and Services (M Thomson)

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the [City of Albany Strategic Community Plan 2023](#) and [Corporate Business Plan 2013-2017](#):
  - a. **Key Theme:** 2. Clean, Green & Sustainable
  - b. **Strategic Objective:** 2.2. To maintain and renew city assets in a sustainable manner.
  - c. **Strategic Initiative:** 2.2.1. Asset Management

**In Brief:**

- Contract C14014 - Provision of Plumbing Services be awarded to Amphibian Plumbing and Gas for an initial period of two years from 1<sup>st</sup> August 2014, with a mutually agreed and price negotiated increase for one year, following which the contract will be retendered.

**RECOMMENDATION**

**WS042: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council:**

1. **ACCEPT** the Tender from Amphibian Plumbing and Gas.
2. **AWARD** contract C14014 for the provision of plumbing services for an initial period of two years, with an optional mutually agreed and price negotiated increase for an additional one year term.

WS042: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON  
SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 4-0

**WS042: RESPONSIBLE OFFICER RECOMMENDATION**

THAT Council:

1. ACCEPT the Tender from Amphibian Plumbing and Gas.
2. AWARD contract C14014 for the provision of plumbing services for an initial period of two years, with an optional mutually agreed and price negotiated increase for an additional one year term.

**BACKGROUND**

2. Due to expiry of the current plumbing services contract on 31<sup>st</sup> July 2014, tenders were called for the provision of plumbing services for an initial period of two years from 1<sup>st</sup> August 2014, with a mutually agreed and price negotiated increase for one year.

**DISCUSSION**

3. A total of ten tender document packs were issued with three submissions received.
4. Three completed tender documents were submitted on/before the stipulated closing date and time. The following table summarises the tenderers and overall evaluation scores applicable to the submissions.

<b>Tenderer</b>	<b>Total Evaluation Score</b>
Knotts Group	311.29
Albany Solar	273.01
Amphibian Plumbing and Gas	622.36

5. The tender documents included tender evaluation criteria using the weighted attribute method. This method scores the evaluation criteria and weights their importance to determine an overall point score for each tender. The criteria are tabled below:-

<b>Criteria</b>	<b>% Weight</b>
Cost	30
Relevant Experience	30
Key Personnel skills and experience	10
Tenderer's Resources	15
Demonstrated Understanding	15
<b>Total</b>	<b>100</b>

6. On the basis of the total evaluation score which considers cost, relevant experience, key personnel skills and experience, tenderer's resources and demonstrated understanding.

**GOVERNMENT & PUBLIC CONSULTATION**

7. A request for tenders was published in the West Australian on 16 April 2014 and the Albany Weekender on 17 April 2014.

**STATUTORY IMPLICATIONS**

8. Regulation 11 of the *Local Government (Functions and General) Regulations 1996 (Regulations)* requires Council to publicly tender if the contract is, or is expected to be, more, or worth more, than \$100,000.
9. 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.
10. Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council's decision.

**POLICY IMPLICATIONS**

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

**RISK IDENTIFICATION & MITIGATION**

12. The risk identification and categorisation relies on the City's [Enterprise Risk Management Framework](#).

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<i>Non compliance with contract or business failure</i>	<i>Unlikely</i>	<i>Medium</i>	<i>Medium</i>	<i>General conditions of contract allow for contract termination on the basis of failure to supply goods and services.</i>

**FINANCIAL IMPLICATIONS**

13. The value of this tender is in excess of \$250,000.00 which is in excess of the Chief Executive Officers delegation and therefore the matter is referred to Council for approval.
14. The cost per job will be included in the specific budget line item.

**LEGAL IMPLICATIONS**

15. Nil

**ENVIRONMENTAL CONSIDERATIONS**

16. Nil

**ALTERNATE OPTIONS**

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

**SUMMARY CONCLUSION**

18. On reviewing the submissions, the evaluation team assessed Amphibian Plumbing and Gas as being the most suitable tenderer across the evaluation criteria in terms of cost, relevant experience, key personnel skills and experience, tenderer's resources and demonstrated understanding.

<b>Consulted References</b>	:	Local Government (Functions and General) Regulations 1995 Council Policy – Purchasing (Tenders & Quotes) Council Policy – Buy Local (Regional Price Preference)
<b>File Number (Name of Ward)</b>	:	C14014
<b>Previous Reference</b>	:	Nil

## **WS043: WET WEATHER ROAD CLOSURE POLICY**

<b>Land Description</b>	: Not Applicable
<b>Proponent</b>	: City of Albany
<b>Owner</b>	: City of Albany
<b>Attachments</b>	: Draft Wet Weather Road Closure Policy
<b>Responsible Officer(s):</b>	: Executive Director Works and Services (M Thomson)

**Responsible Officer's Signature:**



### **STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the [City of Albany Strategic Community Plan 2023](#) and [Corporate Business Plan 2013-2017](#):
  - a. **Key Theme:** 2. Clean, Green and Sustainable.
  - b. **Strategic Objective:** 2.2. To Maintain and Renew City Assets in a Sustainable Manner.
  - c. **Strategic Initiative:** 2.2.1 Asset Management.

### **In Brief:**

- Local Government Authorities have powers under the Local Government Act to close roads in wet weather to prevent damage.
- This report recommends that a policy be adopted to guide City staff in respect to the application of the Local Government Act and for Council to acknowledge the practise of closing roads under certain conditions.

### **RECOMMENDATION**

#### **WS043: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**That Council:**

1. **ADOPT** the draft Wet Weather Road Closure Policy;
2. **NOTE** the Wet Weather Road Closure Policy in the next delegations review.

#### WS043: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON  
SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 4-0

**WS043: RESPONSIBLE OFFICER RECOMMENDATION**

That Council:

1. ADOPT the draft Wet Weather Road Closure Policy;
2. NOTE the Wet Weather Road Closure Policy in the next delegations review.

**BACKGROUND**

2. During the winter months, heavy haulage can cause considerable damage to City's unsealed road network.
3. The City of Albany in conjunction with Main Roads Heavy Vehicle Operations (HVO) supports the approval of applications for heavy haulage vehicles to travel on roads maintained by the Local Authority subject to conditions and the road having the appropriate capacity. These permits are referred to as Restricted Access Vehicle (RAV) permits are generally multi combination vehicles (for example road trains) with a Gross Combination Mass (GCM) of over 42.5 tonne.
4. Vehicles which are considered "as of right" impact on roads also, these are vehicles have a Gross Combination Mass GCM of up to 42.5 tonne. These vehicles do not require a permit, hence they are considered "as of right".
5. To ensure all road users are aware of the risks of damage to City infrastructure, a policy has been developed outlining the City's position in closing an unsealed road to particular types of vehicles in wet conditions.

**DISCUSSION**

6. The City has some control over heavy haulage operators who are operating under a RAV permit in cases where there is damage being caused to roads and often haulage companies will cease operations, where directed, if there is damage being caused.
7. The City has little control, generally, over the as of right vehicles which have potential to cause as much damage.
8. The policy will apply to any vehicle above 4.5 tonne (therefore also applying to RAV permit vehicles).
9. The application of this policy will enable City staff to act in situations (once the appropriate delegations are in place) where there is damage being caused to the City's unsealed road network through continual heavy haulage whether it be under a RAV permit scenario or as of right in conditions (ie wet weather) where the integrity of the gravel surface is compromised.
10. The damage caused under these circumstances is often serious requiring more than general maintenance to rectify.
11. It is proposed to delegate powers to enact this policy to the Executive Director Works and Services and Manager City Works in the next delegations review.
12. Some discretion, at times, would need to be applied for certain circumstances. For example, it may be appropriate to allow school buses to utilise a road if deemed safe to do so.

**GOVERNMENT & PUBLIC CONSULTATION**

- 13. The City is a member of the Timber Roads Operations Group (Great Southern) whose purpose is to discuss issues related to heavy haulage movements and create solutions that will have benefits for all.
- 14. Preliminary discussions have occurred with the Timber Roads Operations Group promoting the concept of a Wet Weather Road Closure policy.
- 15. Industry understandably has concerns about road closures being implemented unreasonably; hence discretion needs to be applied in enacting the policy.
- 16. Given the City is primarily exercising its right under the Local Government Act, general public consultation is not considered necessary.

**STATUTORY IMPLICATIONS**

- 17. Under Section 3.50 of the Local Government Act 1995, the local authority is permitted to close an unsealed road to particular traffic in wet conditions.
- 18. Section 84 of the Road Traffic Act 1974 allows a road authority to recover expenses of losses relating to damage to a road by an identifiable party.
- 19. In accordance with the provisions of the Local Government Act 1995, section 5.42, the Council may delegate to the Chief Executive Officer any of its powers other than those referred to in section 5.43.

**POLICY IMPLICATIONS**

- 20. This report recommends adoption of a new policy.

**RISK IDENTIFICATION & MITIGATION**

- 21. The risk identification and categorisation relies on the City’s [Enterprise Risk Management Framework](#).

<b>Risk</b>	<b>Likelihood</b>	<b>Consequence</b>	<b>Risk Analysis</b>	<b>Mitigation</b>
<i>Reluctance to exercise rights under to LGA due to lack of policy direction causing damage.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Consistent and reasonable application of a road colure policy.</i>

**FINANCIAL IMPLICATIONS**

- 22. The adoption of the Wet Weather Road Closure policy will enable the City to better manage its road unsealed infrastructure thereby reducing maintenance costs and accelerated wear due to periodical wet weather damage.

**LEGAL IMPLICATIONS**

- 23. Not applicable.

**ENVIRONMENTAL CONSIDERATIONS**

- 24. Nil



**ALTERNATE OPTIONS**

25. Council may wish to not adopt a policy relating to this matter. City staff will use its powers in accordance with the Local Government Act.

**SUMMARY CONCLUSION**

26. The adoption of the draft Wet Weather Road Closure policy will assist the City in managing its road network and provide guidance in the application of section 3.5 of the Local Government Act.

<b>Consulted References</b>	:	Not applicable.
<b>File Number (Name of Ward)</b>	:	TT.AUT.1
<b>Previous Reference</b>	:	Not applicable.

**PD034: PARTIAL ROAD CLOSURE – PFEIFFER ROAD**

<b>Land Description</b>	: Portions of Pfeiffer Road
<b>Proponent</b>	: Department of Parks and Wildlife
<b>Owner</b>	: State of WA
<b>Attachments</b>	: DPaW Map of proposed addition to R 26385.pdf ICR13110340.pdf
<b>Appendices</b>	: Nil
<b>Councillor Workstation</b>	: Nil
<b>Responsible Officer(s)</b>	: Executive Director Planning & Development Services (D Putland).

**Responsible Officers  
Signature:**



**In Brief:**

- An application has been received from the Department of Parks and Wildlife to close a portion of Pfeiffer Road.
- Council's support is sought for the Department of Parks and Wildlife's request. This will allow the subject land to be amalgamated with C Class Reserve 26385, known as North Sister Nature Reserve, to better reflect the use of the land.
- The proposed closure of portions of the Pfeiffer Road reserve and amalgamation with the adjoining Reserve 26385 will reflect the current use of the land. It is considered prudent that appropriate land tenure be put in place to facilitate the protection of the environmental values associated with the natural vegetation contained within the affected land. Council's resolution to enact the road closure process and support the amalgamation of these portions into Reserve 26385 will support one of DPaW's fundamental directives to conserve, protect and manage Western Australia's natural assets.

**RECOMMENDATION**

**PD034: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council RESOLVES to initiate the process of closing portions of Pfeiffer Road, Manypeaks.**

ITEM PD034: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HORTIN  
SECOND: COUNCILLOR GREGSON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-0

ITEM PD034: RESPONSIBLE OFFICER RECOMMENDATION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RESOLVES to initiate the process of closing portions of Pfeiffer Road, Manypeaks.

**STRATEGIC IMPLICATIONS**

1. There are no strategic implications related to this item

**BACKGROUND**

2. Portions of the constructed Pfeiffer Road reserve have been identified as being within both freehold title (Lot 6321 Pfeiffer Road) and within the C Class Reserve 26385, namely North Sister Nature Reserve.
3. The affected portions of land under freehold title have undergone the land acquisition process as set out under Section 56 of the *Land Administration Act 1997* and have been dedicated as road reserve.
4. The City required support from the Department of Parks & Wildlife (DPaW) to excise the portions of land within Reserve 26385, which it received in September 2013. The Department of Lands is now in the process of progressing the excision and dedication of these portions of land, as road reserve.
5. While assessing the City's request to excise portions of R 26385, DPaW identified other portions of the current Pfeiffer Road reserve that could be amalgamated into R 26385, to better reflect the use of this land as nature reserve.
6. The City has now been requested by the Department of Lands to progress DPaW's application for acquisition of the subject land, as set out under Section 58 of the *Land Administration Act 1997*. The City request that Council to initiate road closure of those affected portions of Pfeiffer Road, so that they may be amalgamated with Reserve 26385.

**DISCUSSION**

7. The City's Works & Services and Reserves Teams have assessed the affected portions of the Pfeiffer Road reserve and agreed to the proposal, subject to a final survey being conducted to determine the final area for excision.

**GOVERNMENT & PUBLIC CONSULTATION**

8. Section 58 of the *Land Administration Act 1997* sets out the procedure for permanently closing roads. It is a requirement of the Act that the proposed road closure be advertised in a local newspaper for a period not less than 35 days. Notification will also be sent to nearby landowners and to relevant public utility service providers. On conclusion of this process, the Item will be presented to Council again for final determination.

**STATUTORY IMPLICATIONS**

9. Section 58 of the *Land Administration Act 1997* allows the local government to request the Minister for Lands to close a road.

**POLICY IMPLICATIONS**

10. There are no policy implications related to this item.

**RISK IDENTIFICATION & MITIGATION**

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Affected portions of Pfeiffer Road remain as road reserves.</i>	<i>Likely</i>	<i>Minor</i>	<i>Medium</i>	<i>To amend land tenure to adequately reflect the current usage of the land.</i>

**FINANCIAL IMPLICATIONS**

11. There are minor administrative costs associated with advertising the proposal to adjoining landholders and servicing agents which is the responsibility of the proponent, DPaW.
12. The City has been in discussions with DPaW and the Department of Lands regarding the responsibility for costs associated with appointing a qualified surveyor to provide a Deposit Plan. The City has agreed to cover these costs which will have been allocated in the 2014/2015 Lands budget.

**LEGAL IMPLICATIONS**

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

**ENVIRONMENTAL CONSIDERATIONS**

14. The affected portions of road reserve currently contain bushland that is under land tenure that does not reflect the current land use.

**ALTERNATE OPTIONS**

15. Council can:
  - a. Decline the request to close the subject portions of Pfeiffer Road and the land will remain as road reserve, as it has done for many years.
  - b. Support the request to close the subject portions of Pfeiffer Road so that this land can be amalgamated into the adjoining Reserve 26385, thereby legitimising the current land use.

**SUMMARY CONCLUSION**

16. The proposed closure of portions of the Pfeiffer Road reserve and amalgamation with the adjoining Reserve 26385 will reflect the current use of the land. It is considered prudent that appropriate land tenure be put in place to facilitate the protection of the environmental values associated with the natural vegetation contained within the affected land. Council's resolution to enact the road closure process and support the amalgamation of these portions into Reserve 26385 will support one of DPaW's fundamental directives to conserve, protect and manage Western Australia's natural assets.

<b>Consulted References</b>	:	Land Administration Act 1997
<b>File Number (Name of Ward)</b>	:	RD.RDC.2
<b>Previous Reference</b>	:	

**PD035: ADVERTISE DRAFT HOLIDAY ACCOMMODATION POLICY**

**Land Description** : City of Albany  
**Proponent** : City of Albany  
**Owner** : City of Albany  
**Business Entity Name** : N/A  
**Attachments** : Draft Holiday Accommodation Policy  
**Appendices** : Nil  
**Councillor Workstation** : Nil  
**Responsible Officer(s)** : Executive Director Planning & Development Services  
(D Putland)

**Responsible Officer's Signature:**



**In Brief:**

- Potential operators of holiday accommodation have requested that the City support more than six (6) persons staying at any one time within a dwelling used for holiday accommodation purposes.
- The City's existing 'Holiday Home' policy supports a maximum of six (6) persons staying within a dwelling.
- It is requested that the Council adopts for consultation purposes, the new Draft Holiday Accommodation' policy, which supports a maximum of twelve (12) persons staying at any one time subject to complying with additional health standards.

**RECOMMENDATION**

**PD035: COMMITTEE RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council ADOPTS the Draft Holiday Accommodation Policy for ADVERTISING for a period of 28 days.**

ITEM PD035: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON  
SECOND: COUNCILLOR HORTIN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 6-3

**Record of Vote**

Against the Motion: Councillors Hammond, Hortin and Gregson

ITEM PD035: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ADOPTS the draft 'Holiday Accommodation' policy for ADVERTISING for a period of 28 days.

**STRATEGIC IMPLICATIONS**

1. This item relates directly to the following element of the *Community Strategic Plan "Albany 2023"*:

**Key Theme:** 1. Smart, Prosperous & Growing

**Strategic Objective:** 1.1 To foster education, training and employment opportunities that support economic development.

**Strategic Objective:** 3.1 To advocate, plan and build friendly and connected communities.

**BACKGROUND**

2. Holiday Accommodation is a use under Local Planning Scheme 1 and means any land and/or building providing accommodation and recreation facilities for guests/tourists on a short-term commercial basis and may include a shop or dining area incidental to the function providing limited services to patrons (Source: Local Planning Scheme 1).
3. The City's existing 'Holiday Home' policy supports a maximum of six (6) persons staying at any one time within a dwelling.
4. In anticipation of a high amount of tourists seeking accommodation to commemorate the Centenary of Anzac, to be held from 2014 to 2018, potential operators of holiday accommodation have requested that the City support more than the current maximum six (6) persons that can stay, in a dwelling used for holiday accommodation purposes at any one time.

**DISCUSSION**

5. Anecdotal evidence suggests that holiday accommodation within Albany is currently booked out for the Centenary of Anzac, beginning in November 2014.
6. The City's existing 'Holiday Home' policy supports a maximum of six (6) persons staying at any one time within a dwelling.
7. A new draft 'Holiday Accommodation' policy has been prepared to replace the existing 'Holiday Home' policy. The new draft policy supports, subject to health standards, an increase in the amount of persons that can stay at any one time to a maximum of twelve (12).
8. The health standards that now apply include:
  - a) 4 square metres being available per person in each bedroom utilising beds; and
  - b) 2.5 square metres being available per person in each bedroom utilising bunks.
9. The new policy also refers to "Holiday Accommodation" rather than "Holiday Home" in accordance with the definition used in the Local Planning Scheme 1.

10. The Western Australian Planning Commission (WAPC) has written a Planning Bulletin 99 (Holiday Home Guideline) to inform the tourism industry on appropriate measures for accommodating tourists.

The (WAPC) Planning Bulletin 99 supports by definition a maximum of 12 persons within a 'Large' Holiday Home.

*“Holiday home (large) means premises conforming to the definition of holiday home (standard) with the exception that the premises provide short stay accommodation for more than six people but not more than 12 at any one time.”*

11. The proposed change to the policy as it pertains to the number of people that can occupy a holiday accommodation unit is in accordance with the WAPC guideline.
12. The increase in the maximum amount of persons to twelve (12) is expected to increase the potential supply of short stay accommodation.

### **GOVERNMENT & PUBLIC CONSULTATION**

13. If the Council resolves to support the draft 'Holiday Accommodation' policy for advertising:
- (a) a notice of the proposed Local Planning Policy, is to be placed, once a week for two consecutive weeks in a newspaper circulating in the Scheme area, giving details of:
    - (i) Where the draft Local Planning Policy can be inspected;
    - (ii) The subject and nature of the draft Local Planning Policy; and
    - (iii) In what form and during what period (being not less than 21 days from the day that the first notice is published) submissions may be made.
14. After expiry of the period within which submissions may be made, 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**

15. There are no statutory implications relating to this item. An application for Holiday Accommodation is to be assessed in accordance with normal procedures set by the Local Planning Scheme.
16. A Local Planning Policy may be revoked by:
- (a) The adoption by the Local Government of a new Policy that is specifically expressed to supersede the existing Local Planning Policy; or
  - (b) Publication of a notice of revocation by the Local Government once a week for two consecutive weeks in a newspaper circulating in the Scheme area.

## POLICY IMPLICATIONS

17. The policy is consistent with the objectives of the Western Australian Planning Commission *Planning Bulletin 99 – Holiday Homes Guidelines*, which are:

- (a) To facilitate a consistent process for regulating holiday homes;
- (b) To support the tourism industry by the promotion of voluntary accreditation of holiday homes; and
- (c) To encourage good quality, well managed holiday homes.

## RISK IDENTIFICATION & MITIGATION

18. The following indicates the risk to the City in making a decision to support or not support a change to the 'Holiday Home' Policy:

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>The tourism industry may be impacted if the City resolves not to support advertising the change to increase the amount of potential beds available for holiday accommodation.</i>	<i>Likely</i>	<i>Moderate reputational impact considering the Centenary of Anzac, to be commemorated from 2014 to 2018</i>	<i>Medium</i>	<i>Mitigation entirely dependent on Council.</i>

## FINANCIAL IMPLICATIONS

19. There are no financial implications relating to this item.

## LEGAL IMPLICATIONS

20. There are no legal implications relating to this item.

## ENVIRONMENTAL CONSIDERATIONS

21. There are no environmental implications relating to this item.

## ALTERNATE OPTIONS

22. The Council may choose to: refuse to advertise the draft 'Holiday Accommodation' policy; or defer the decision until further information is provided.

## SUMMARY CONCLUSION

23. Anecdotal evidence suggests that holiday accommodation within Albany is currently booked out for the Centenary of Anzac, beginning in November 2014.

24. Operators of holiday accommodation have requested that the City support more than the current maximum six (6) persons that can stay at any one time.

25. This item requests Council to support the advertising of a new draft Holiday Accommodation Policy, which supports, subject to health requirements, an increase from six (6) to twelve (12) persons to help increase the supply of holiday accommodation.



<b>Consulted References</b>	:	1. <i>Local Planning Scheme 1</i> 2. <i>Policy Manual</i> 3. Western Australian Planning Commission <i>Planning Bulletin 99 – Holiday Homes Guidelines</i>
<b>File Number (Name of Ward)</b>	:	N/A
<b>Previous Reference</b>	:	OCM 19/04/11 - Item 1.1 Final Adoption of Policy Manual

**PD036: INDUSTRY – EXTRACTIVE (GRAVEL AND SAND)**

**Land Description** : 105 Bon Accord Road (Lot 110) King River.  
**Proponent** : David Palmer – Palmer Earthmoving  
**Owner** : D Palmer  
**Business Entity Name** : Palmer Earthmoving Australia Pty Ltd  
**Attachments** : Site Plan  
Copy of Submissions  
**Councillor Workstation** : Nil  
**Responsible Officer(s)** : Executive Director Planning and Development Services  
(D Putland)

**Responsible Officer's Signature:**



**In Brief:**

- Council is asked to consider an application for Planning Scheme Consent for an Extractive Industry for Gravel and Sand at 105 Bon Accord Road, King River.
- The application has been advertised for public comment and referred to surrounding landowners.
- One letter of objection has been received.
- Due to the objection the matter is being referred to Council for determination.
- Staff recommend that Council support the proposal.

**RECOMMENDATION**

**PD036: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for development Industry – Extractive (Gravel and Sand) at 105 Bon Accord Road, King River. Subject to the following conditions:**

- Top soil to a depth of 150mm (unless otherwise approved by the Director Works and Services) is to be removed from the extraction areas and is to be stored on-site for use in later rehabilitation.
- A minimum of 150mm of top soil is to be left above any hard surface (i.e clay/gravel) unless a lesser amount is approved by the Director Works and Services.
- The applicant will be responsible for the repair of any undue damage to Bon Accord Road caused by the extraction operations.
- The existing crossover and 30m of the driveway shall be upgraded to the specifications, levels and satisfaction of the City of Albany.
- The pits shall be suitably drained. No direct discharge shall occur from the pit into a watercourse without the prior approval of the Department of Water.
- A bond/bank guarantee of \$800 shall be lodged on a per hectare basis with Council for remediation work if required.
- Operation of the pits shall be restricted to the hours of: 7.00am-6.00pm Monday to Friday, 8.00am-5.00pm Saturday. No operation at all on Sundays or Public Holidays.
- The applicant shall liaise with school bus operators to establish a traffic schedule to avoid potential conflict with school bus operations.
- The site is to be suitably rehabilitated and recontoured on a per hectare basis including rebattering of banks and reseeded and stabilising old extraction areas.
- The operation of the pits shall be contained within that area indicated on plans submitted with the application.
- The extraction pits being screened from view from the surrounding lots and adjacent road by the use of suitable trees and shrubs.
- The pits shall be suitably drained. No direct discharge shall occur from the pits into a watercourse within the prior approval of the Department of Water.
- No remnant vegetation shall be removed as part of this extraction operation, unless prior approvals from the Department of Environment Regulation are obtained.
- No blasting of material is permitted as part of extraction operations, unless separate approval is granted by Council.
- Only one hectare of the pits shall be open at any one time.

**PD036: COMMITTEE RECOMMENDATION**

**MOVED: COUNCILLOR WILLIAMS  
SECONDED: MAYOR WELLINGTON**

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

**CARRIED 8-0**

ITEM PD036: RESPONSIBLE OFFICER RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to ISSUE a Notice of Planning Scheme Consent for development Industry – Extractive (Gravel and Sand) at 105 Bon Accord Road, King River. Subject to the following conditions:

- Top soil to a depth of 150mm (unless otherwise approved by the Director Works and Services) is to be removed from the extraction areas and is to be stored on-site for use in later rehabilitation.
- A minimum of 150mm of top soil is to be left above any hard surface (i.e clay/gravel) unless a lesser amount is approved by the Director Works and Services.
- The applicant will be responsible for the repair of any undue damage to Bon Accord Road caused by the extraction operations.
- The existing crossover and 30m of the driveway shall be upgraded to the specifications, levels and satisfaction of the City of Albany.
- The pits shall be suitably drained. No direct discharge shall occur from the pit into a watercourse without the prior approval of the Department of Water.
- A bond/bank guarantee of \$800 shall be lodged on a per hectare basis with Council for remediation work if required.
- Operation of the pits shall be restricted to the hours of: 7.00am-6.00pm Monday to Friday, 8.00am-5.00pm Saturday. No operation at all on Sundays or Public Holidays.
- The applicant shall liaise with school bus operators to establish a traffic schedule to avoid potential conflict with school bus operations.
- The site is to be suitably rehabilitated and recontoured on a per hectare basis including rebattering of banks and reseeding and stabilising old extraction areas.
- The operation of the pits shall be contained within that area indicated on plans submitted with the application.
- The extraction pits being screened from view from the surrounding lots and adjacent road by the use of suitable trees and shrubs.
- The pits shall be suitably drained. No direct discharge shall occur from the pits into a watercourse within the prior approval of the Department of Water.
- No remnant vegetation shall be removed as part of this extraction operation, unless prior approvals from the Department of Environment Regulation are obtained.
- No blasting of material is permitted as part of extraction operations, unless separate approval is granted by Council.
- Only one hectare of the pits shall be open at any one time.

## STRATEGIC IMPLICATIONS

1. This item relates directly to the following element of the *Community Strategic Plan “Albany 2023”*:
  - a. **Key Theme:** 1. Smart, Prosperous & Growing
  - b. **Strategic Objective:** 1.1 To foster education, training and employment opportunities that support economic development.
2. Council’s decision on the proposal should be consistent with the objectives of the *Albany Local Planning Strategy (ALPS)* as the principal land use planning strategy for the City.
3. Section 8.5.3 – Industry of ALPS sets the following Strategic Objective:  
*“Provide the necessary land and supporting infrastructure to maintain an adequate supply and range of serviced industrial land in appropriate locations.”*

The ALPS expands on this by referring to a number of regionally important industrial sites, then states that *“other industrial land within Albany is constrained by the location of sites, environmental issues, accessibility, level of services and capacity to support a range of industrial activities.”*

## BACKGROUND

4. The subject land lies to the northern side of Bon Accord Road, approximately 11km north east of the Albany City centre. The site slopes north to south and is approximately 28.6 hectares in area. There is scattered vegetation on the lot with a large pocket of trees located to the west of the proposed extraction sites.
5. The site is zoned ‘General Agriculture’ under City of Albany *Local Planning Scheme No. 1* (the Scheme).
6. The site is bounded by General Agriculture zoned land to the north and south and Parks and Recreation zoned land to the east.
7. A Rural Residential area currently exists to the south east and a large lot to the west is currently zoned for Rural Residential lots; however this lot is yet to be subdivided in accordance with its Subdivision Guide Plan.
8. The proponent previously had Planning Scheme Consent for an extractive industry (gravel dated 21 September, 2004) on the subject lot.
9. In 2010 the proponent chose not to renew their annual Extractive Industry License a new approval is therefore required.
10. The proposal seeks to re-open and extend the previous extractive industry area on the subject lot.
11. The proposal was advertised for public comment in accordance with Clause 9.4.3 of *Local Planning Scheme No. 1*, between 20 March, 2014 and 10 April, 2014, one objection was received.
12. Council is now requested to consider submissions received during the public advertising period and determine whether to grant Planning Scheme Consent for the proposed extractive industry.

## DISCUSSION

13. The proposal seeks to extract gravel and sand from the subject site and truck the sand off site for use within the Albany area.
14. The proposal is defined as an 'Industry - Extractive' for purposes of assessment under *Local Planning Scheme No. 1*. An 'Industry - Extractive' is classified as an 'A' use within the General Agriculture zone.
15. The proposed gravel extraction area is 'L' shaped and 3ha in area and is setback 155m from the northern boundary and 120m from the eastern boundary. The proposed sand extraction area is 1.5ha and is setback 30m from both the northern and eastern boundaries.
16. There is currently some scattered vegetation located on the proposed gravel extraction site. The applicant will have to discuss the removal of this vegetation with the Department of Environment Regulation; formal applications for clearing may be required.
17. The proponents have provided the following (summarised) outline of how the proposed extractive industry will operate;
  - a. The topsoil is to be stripped by a bulldozer approximately 100-150mm deep and stockpiled along the edge of the extraction areas to provide a visual screen and re-laid once extraction is complete.
  - b. It is proposed to progressively rehabilitate the site back to the existing state of pasture upon completion of the extraction operations.
18. The primary assessment criterion for the application is the City of Albany *Extractive Industry and Mining* policy 'the policy'. Compliance with the policy is discussed below.
  - a. The proposal is classified as a class 2 extractive industry under the policy. Class 2 extractive industries have site extraction areas of between 0.75 and 3ha with a maximum depth of 3m.
  - b. The Policy requires that buffer distances are to be in accordance with the setbacks outlined within the Environmental Protection Authority (EPA) requirements. The EPA's "*Separation Distances between Industrial and Sensitive Land Uses*" guidelines set out a buffer of between 300-500m for these activities. Although this buffer is not contained within the lot boundaries, the closest dwelling is over 500m away from both extraction areas, and therefore complies with the requirements set out by the EPA.
  - c. The proposed pits are compliant with the provision of the policy that requires pits be located 30m from any public road.
  - d. The proposed pit area complies with the requirement that it be set back a minimum of 50m from a watercourse or body.
19. Access to and from the site will be from the existing crossover which is located centrally in the property boundary on to Bon Accord Road.
20. The proponent has advised that the estimated truck movements during a major road construction project would be 40-50 per day.
21. These vehicle movements would be undertaken by six wheel trucks and semi tippers. These vehicles are permitted on public roads without special permits and are referred to 'as of right' Vehicles.

22. The majority of vehicles movements would head towards and use Chester Pass Road. This is a major arterial road used daily by large vehicles.
23. Bon Accord Road might be used if a client requires a product to be delivered in that area. If the applicant proposes to use vehicles in excess of 'as of right' specifications they will be obligated to apply for permission with Main Roads Western Australia.
24. Extractive industries are subject to an annual licence renewal. This process ensures work is being undertaken in accordance with conditions of approval and that rehabilitation work is correctly carried out.
25. Two written submissions were received during the public consultation period. One submission objected to the proposal, while the second advised of no comment. The details of the submissions are summarised in the public consultation section below.

### **GOVERNMENT & PUBLIC CONSULTATION**

26. Formal consultation with State Government Departments was not undertaken as it was not required. However the application has been discussed with Main Roads Western Australia, who verbally agreed they have no major concerns with the proposal. They did however advise sealing the crossover and driveway to reduce the spread of dirt and debris onto public roads, officers have recommended this as a condition of approval.
27. A 21 day public consultation was undertaken in accordance with the *Local Planning Scheme No.1* requirements.
28. The proposal was advertised in accordance with Clause 9.4.3 of *Local Planning Scheme No. 1* from 20 March, 2014 to 10 April, 2014. An advert was placed in the public notice section of a local newspaper. The City also wrote directly to fourteen surrounding landowners seeking comment, a notice was also placed on site.
29. The broad issues and concerns raised in the objection relate to:
  - Amenity and Land use conflict
  - Property values
  - Noise
  - Impact on Infrastructure and damage
  - Traffic and personal safety
  - Visual Impact
  - Operational hours

#### Amenity and Land use conflict

30. While the proposed land use can be considered in the 'General Agriculture' zone, concerns were raised over the suitability of the location and the perceived effects on amenity that could result from the proposed extractive industry.
31. The proposed site is well located next to a major Road and not directly adjacent to any residential uses.
32. Screening vegetation is already in place and further screen plantings could also be required as a condition of any approval.
33. There are therefore no significant impacts on the amenity that cannot be managed through conditions.

### Property values

34. The negative effect of the proposed extractive industry on property values was identified in the submission. Property values are not a valid planning consideration and is not listed under the matters to be considered in the Local Planning Scheme and therefore not considered in the assessment of development applications. If Council wishes to discuss issues that are outside of the scope of the Matters to be considered, they have discretion to do so.

### Noise

35. Concerns about noise generation primarily relate to the noise generated by truck movements to and from the site and the impact that this would have on the amenity of the properties in the area.
36. The nearest dwelling is located over 500m from the extraction area.
37. The majority of vehicles would turn onto Chester Pass Road as opposed to driving down the entire length of Bon Accord Road and then onto Prideaux Road.
38. Any work on the site would also be subject to ongoing compliance with the *Environmental Protection (Noise) Regulations 1997*.

### *Impact on infrastructure and damage*

39. The impact of additional traffic and the suitability of the existing road system in the area were also identified as concerns during the consultation period.
40. The submission indicated that Prideaux and Bon Accord Roads are not adequately constructed to cater for heavy traffic. The submission also raises the potential for conflict with pedestrians and cyclists. The submission also raises a concern that these roads will rapidly deteriorate with frequent additional use by heavy vehicles.

Given the site's proximity to Chester Pass Road it is likely that majority of vehicle movements would be towards and onto Chester Pass Road.

Bon Accord Road and Prideaux Road are likely to be used less frequently to provide materials to the developments in the area.

41. Officers recommend that a standard condition requiring the proponent to rectify any damage to Bon Accord road should be applied.

### Traffic and personal safety

42. The potential for conflict between trucks and school buses was also raised as a concern. In order to mitigate the issue, it is common practice to apply a condition requiring extractive industry operators to liaise with school bus operators to commence a dialogue and establish a schedule to avoid potential conflict.

### Visual impact

43. Concerns were also raised about the visual impact and the impact on the natural environment itself. The large vegetation pocket located to the west of the gravel extraction area and the scattered vegetation on the front boundary (abutting Bon Accord Road) will reduce the visual impact from public vantage points.
44. Officers also recommend a condition requiring additional vegetation to be planted to further screen the extraction areas.



Operational hours

45. Operational hours are applied to extractive industry proposals as a condition of consent. The standards hours applied are generally 7.00-6.00pm Monday to Friday, 7.00am - 5.00pm Saturday. No operation will be permitted on Sundays or Public Holidays.
46. Council may also wish to consider restricting the hours of operation on Saturdays in order to balance amenity concerns of residents with the expectations of the proponents.

**STATUTORY IMPLICATIONS**

47. *Local Planning Scheme No.1* defines Industry – Extractive as;

*“means an industry which involves the extraction, quarrying or removal of sand, gravel, clay, hard rock, stone or similar material from the land and includes the treatment and storage of those materials, or the manufacture of products from those materials on, or adjacent to, the land from which the materials are extracted, but does not include industry-mining”.*

48. The objectives of the ‘General Agriculture’ zone are as follows;

- (a) *Provide for the sustainable use of land for agriculture and rural activities;*
- (b) *Support complimentary land uses where those land uses do not detract from adjoining agricultural and rural activities and are compatible with the character and amenity of the area;*
- (c) *Prevent land uses and development within the zone that may adversely impact on the continued use of the zone for agricultural and rural purposes;*
- (d) *Provide for value-adding opportunities to agricultural and rural products on site; and*
- (e) *Provide for tourism experiences where those developments do not impact upon adjoining agricultural and rural land uses.*

49. Clause 10.2 of *Local Planning Scheme No. 1* specifies the Matters to be Considered by the Local Government and states that:

*“The Local Government in considering an application for planning approval is to have due regard to such of the following matters as are in the opinion of the Local Government relevant to the use or development the subject of the application:*

- (a) *the aims and provisions of the Scheme and any other relevant town planning schemes operating within the Scheme Area;*
- (b) *the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment, or region scheme or amendment, which has been granted consent for public submissions to be sought;*
- (d) *any approved environmental protection policy under the Environmental Protection Act 1986;*
- (f) *any Local Planning Policy adopted by the Local Government under clause 2.4, any heritage policy statement for a designated Heritage Area adopted under clause 7.2.2, and any other plan or guideline adopted by the Local Government under the Scheme;*
- (i) *the compatibility of a use or development with its setting;*
- (j) *any social issues that have an effect on the amenity of the locality;*

- (l) *the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;*
- (n) *the preservation of the amenity of the locality;*
- (o) *the relationship of the proposal to development on adjoining land or on other land in the locality including but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the proposal;*
- (p) *whether the proposed means of access to and egress from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvring and parking of vehicles;*
- (q) *the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *whether adequate provision has been made for access by disabled persons;*
- (v) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (y) *any relevant submission received on the application;*
- (aa) *any other planning consideration the Local Government considers relevant.”*

50. These relevant matters have been considered and addressed by Staff in arriving at the recommendation.

### POLICY IMPLICATIONS

51. The application is generally consistent with the City of Albany *Extractive Industry And Mining* policy. Compliance with the Policy has been discussed and addressed in the preceding discussion section of the report.

### RISK IDENTIFICATION & MITIGATION

52. The risk identification and categorisation relies on the City’s [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Approving the proposed use could give rise to unacceptable detrimental impacts on the amenity of the area.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Mitigation of impacts to be achieved through adoption and enforcement of conditions.</i>

### FINANCIAL IMPLICATIONS

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

### LEGAL IMPLICATIONS

55. The Council is at liberty to use its discretion to approve or refuse the proposal. This application is being assessed on its individual merits and will not set a general precedent for future development of this or any other site.
56. The proponent has the right to seek a review of the Council's decision, including any conditions attached to an approval. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

### ENVIRONMENTAL CONSIDERATIONS

57. There are no environmental considerations pertaining to the application.

### ALTERNATE OPTIONS

58. Council may determine that the proposed use is unacceptable and may resolve to refuse the application.

### SUMMARY CONCLUSION

59. The application seeks Planning Scheme Consent for an extractive industry (gravel and sand) on the subject site.
60. The proposal has been advertised as required, with one objection received in response.
61. The proposal is considered to be consistent with the objectives of the zone and the requirements of the City of Albany *Extractive Industry and Mining* policy. On this basis, it is considered the proposal can be appropriately managed through ongoing conditions and the yearly licence renewal process.
62. Staffs recommend the proposal be approved.

<b>Consulted References</b>	:	<i>City of Albany Local Planning Scheme No. 1; City of Albany Extractive Industries and Mining Policy; Environmental Protection Authority "Separation Distances between Industrial and Sensitive Land Uses" Environmental Protection (Noise) Regulations 1997.</i>
<b>File Number (Name of Ward)</b>	:	A69488 (Kalgan Ward)
<b>Previous Reference</b>	:	Not Applicable

**PD037: DOG AMENDMENT REGULATIONS 2014 – DECLARATION OF  
DOG EXERCISE/PROHIBITED AREAS BY COUNCIL**

**Attachments** : Nil  
**Responsible Officer** : Executive Director Planning and Development Services (D. Putland).

**Responsible Officer's Signature:**



**STRATEGIC IMPLICATIONS**

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2017:
  - a. **Key Theme:** 5. Civic Leadership.
  - b. **Strategic Objectives:**
    - 5.1 To establish and maintain sound business and governance structures.
    - 5.3 To engage effectively with our community.
  - c. **Strategic Initiative:** Nil

**In Brief:**

- Recent amendments to the *Dog Regulations 2013* have removed the ability of Local Government to make local laws with respect to dog exercise and prohibited areas.
- The amendments provide a sunset date for the cessation of existing laws.
- Powers have been added to the *Dog Act 1976* to enable Council to declare dog exercise or prohibited areas.
- A Council resolution is required to extend the operation of declared dog exercise areas and specifically prohibited areas within the City of Albany beyond this date.
- There will be no change to the existing dog exercise and specified prohibited areas.

**RECOMMENDATION**

**PD037: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**THAT Council RESOLVE to advertise for public consultation its intention to extend the operation of existing declared dog exercise and specified prohibited dog areas:**

- (1) Declare that the following areas are designated DOG EXERCISE AREAS:**
  - (a) Reserve 36617, Lot 7457, Orana.**
  - (b) Reserve 25356, Clifton Street, Lockyer.**
  - (c) Reserve 25382, Apex Park (Place of Heritage Value), Lockyer.**
  - (d) Reserve 35088, Lot 7380 bordered by Barnesby Drive and Yakamia Creek, Yakamia.**
  - (e) Foundation Park, Parade Street.**
  - (f) Drain Reserve 7229 on Lots 312 and 315 Cockburn Road, Mira Mar.**
  - (g) All that section of Reserve 14789 (Middleton Beach)**
  
- (2) Declare that DOGS ARE PROHIBITED in the following areas:**
  - (a) A public building;**
  - (b) A theatre, picture garden or recreation hall;**
  - (c) A house of worship;**
  - (d) A shop or other business premises (excluding a pet shop or veterinary clinic); or**
  - (e) A construction, building or demolition site.**
  - (f) Albany Regional Airport:**
    - (1) A person shall not bring an animal on to an aerodrome unless—**
      - (a) the person is a person referred to in section 8 of the *Dog Act 1976* acting in accordance with that provision;**
      - (b) the animal is being air freighted from the aerodrome;**
      - (c) the animal has been air freighted to the aerodrome; or**
      - (d) the person is authorised to do so by the local government.**
  
- (3) Declare that DOGS ARE PROHIBITED IN THE FOLLOWING SPECIFIED AREAS:**
  - (a) Emu Beach and that area known as Emu Point being portions of Reserve 14789 east of the prolongation of Griffith Street and Reserve 22698 south of the prolongation of Bedwell Street and for a distance of fifty (50) metres inland from the high water mark.**
  
  - (b) Middleton Beach and Ellen Cove being all that area of Reserve 14789 and Reserve 26149 bordered by the prolongation of the Ellen Cove Jetty to the South, the prolongation of the northern boundary of Lot 1340 Reserve 36320 (Middleton Beach Caravan Park) to the north.**
  
  - (c) Cosy Corner being that portion of Reserve 26221 from the low water mark in a foreshore corridor one hundred and ten (110) metres wide extending from the most northern point of Reserve 24547 to a westerly prolongation of the most northerly point of Migro Island.**
  
  - (d) Frenchman Bay being that portion of Reserve 26221 from the low water mark in a foreshore corridor seventy (70) metres wide extending from a parallel alignment twenty metres south of the prolongation of the most southern side boundary of Plantagenet Location 2104/2471, Lot 233 La**

**Perouse Road to the prolongation of the eastern boundary of Plantagenet Location 2471, Lot 13 St Georges Crescent, Frenchman Bay.**

- (e) Cheyne Beach being that portion of Reserve 878 from the low water mark in a foreshore corridor fifty (50) metres wide extending from the prolongation of the eastern boundary of Lot 12 Kybra Road of Reserve 878, Cheyne Beach to the most easterly boundary of Reserve 878.**
  - (f) Cape Riche being the whole of Reserves 1010 and 33850 together with the beach foreshore location defined by the low water mark and the northern boundary of Reserve 1010 and by the northern prolongations of the west and east boundaries of Reserve 1010.**
  - (g) Nanarup Beach being that portion of the beach foreshore defined by the low water mark and the southern boundary of Plantagenet Location 416, Lot 6 fronting Nanarup Road and by the prolongation south easterly of the southernmost southwestern boundary of Plantagenet Location 406, Lot A88 fronting Nanarup Road and the prolongation south easterly of the southernmost southwestern boundary of Plantagenet Location 416, Lot 6 fronting Nanarup Road.**
  - (h) Whalers Beach being that portion of Reserve 21337 from the low water mark in a foreshore corridor one hundred and ten (110) metres wide extending from the prolongation of the north eastern boundary of Plantagenet Location 7584, Lot 1 fronting Frenchman Bay Road, Frenchman Bay to the prolongation of the most western boundary of the same lot.**
- (4) NOTE this resolution is subject to any written law and any law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992 (Commonwealth)*, section 9(2).**

PD037: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR HORTIN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-0

PD037: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RESOLVE to advertise for public consultation its intention to extend the operation of existing declared dog exercise and specified prohibited dog areas:

- (1) Declare that the following areas are designated DOG EXERCISE AREAS:
  - (a) Reserve 36617, Lot 7457, Orana.
  - (b) Reserve 25356, Clifton Street, Lockyer.
  - (c) Reserve 25382, Apex Park (Place of Heritage Value), Lockyer.
  - (d) Reserve 35088, Lot 7380 bordered by Barnesby Drive and Yakamia Creek, Yakamia.
  - (e) Foundation Park, Parade Street.
  - (f) Drain Reserve 7229 on Lots 312 and 315 Cockburn Road, Mira Mar.
  - (g) All that section of Reserve 14789 (Middleton Beach)
  
- (2) Declare that DOGS ARE PROHIBITED in the following areas:
  - (a) A public building;
  - (b) A theatre, picture garden or recreation hall;
  - (c) A house of worship;
  - (d) A shop or other business premises (excluding a pet shop or veterinary clinic); or
  - (e) A construction, building or demolition site.
  - (f) Albany Regional Airport:
    - (1) A person shall not bring an animal on to an aerodrome unless—
      - (a) the person is a person referred to in section 8 of the *Dog Act 1976* acting in accordance with that provision;
      - (b) the animal is being air freighted from the aerodrome;
      - (c) the animal has been air freighted to the aerodrome; or
      - (d) the person is authorised to do so by the local government.
  
- (3) Declare that DOGS ARE PROHIBITED IN THE FOLLOWING SPECIFIED AREAS:
  - (a) Emu Beach and that area known as Emu Point being portions of Reserve 14789 east of the prolongation of Griffith Street and Reserve 22698 south of the prolongation of Bedwell Street and for a distance of fifty (50) metres inland from the high water mark.
  - (b) Middleton Beach and Ellen Cove being all that area of Reserve 14789 and Reserve 26149 bordered by the prolongation of the Ellen Cove Jetty to the South, the prolongation of the northern boundary of Lot 1340 Reserve 36320 (Middleton Beach Caravan Park) to the north.
  - (c) Cosy Corner being that portion of Reserve 26221 from the low water mark in a foreshore corridor one hundred and ten (110) metres wide extending from the most northern point of Reserve 24547 to a westerly prolongation of the most northerly point of Migro Island.
  - (d) Frenchman Bay being that portion of Reserve 26221 from the low water mark in a foreshore corridor seventy (70) metres wide extending from a parallel alignment twenty metres south of the prolongation of the most southern side boundary of Plantagenet Location 2104/2471, Lot 233 La Perouse Road to the prolongation of the eastern boundary of Plantagenet Location 2471, Lot 13 St Georges Crescent, Frenchman Bay.
  - (e) Cheyne Beach being that portion of Reserve 878 from the low water mark in a foreshore corridor fifty (50) metres wide extending from the prolongation of the

eastern boundary of Lot 12 Kybra Road of Reserve 878, Cheyne Beach to the most easterly boundary of Reserve 878.

(f) Cape Riche being the whole of Reserves 1010 and 33850 together with the beach foreshore location defined by the low water mark and the northern boundary of Reserve 1010 and by the northern prolongations of the west and east boundaries of Reserve 1010.

(g) Nanarup Beach being that portion of the beach foreshore defined by the low water mark and the southern boundary of Plantagenet Location 416, Lot 6 fronting Nanarup Road and by the prolongation south easterly of the southernmost southwestern boundary of Plantagenet Location 406, Lot A88 fronting Nanarup Road and the prolongation south easterly of the southernmost southwestern boundary of Plantagenet Location 416, Lot 6 fronting Nanarup Road.

(h) Whalers Beach being that portion of Reserve 21337 from the low water mark in a foreshore corridor one hundred and ten (110) metres wide extending from the prolongation of the north eastern boundary of Plantagenet Location 7584, Lot 1 fronting Frenchman Bay Road, Frenchman Bay to the prolongation of the most western boundary of the same lot.

(4) NOTE this resolution is subject to any written law and any law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992 (Commonwealth)*, section 9(2).

## BACKGROUND

2. Prior to the introduction of the *Dog Regulations 2013* on 1 November 2013, Local Governments were empowered by section 51(b), s51(ba) and s51(bb) *Dog Act 1976* to make local laws with respect to establishing dog exercise areas and specifying areas where dogs are prohibited absolutely.
3. The City of Albany resolved to establish such laws through the *Animals Local Law 2001*, which was gazetted on 15 January 2002.
4. Since the introduction of the *Dog Regulations 2013*, amendments have been necessary, resulting in the *Dog Amendment Regulations 2014* being published in the *Government Gazette* on 20 May 2014.
5. From November 1, 2013 section 37(1) of the *Dog Regulations 2013* removed a Local Government's ability to make local laws with respect to these two areas.
6. Dog exercise and prohibited areas are now resolved by Council after public consultation, rather than prescribed in a local law.

## DISCUSSION

7. Council have previously acknowledged through the establishment of local laws that some degree of control is necessary over the access to amenities and movement of dogs in the City of Albany municipality. Suitable dog exercise areas have been identified and included in schedule 3 of the *Animals Local Law 2001*. Conversely, dogs are prohibited in certain public and specified areas. These areas are outlined in schedule 2 of the *Animals Local Law 2001*.
8. Section 37(2) of the *Dog Regulations 2013* provides a sunset date for the removal of the provisions of the *Dog Act 1976* that Council use for making local laws for establishing dog exercise and prohibited areas.



9. This date is set under legislation as 31 July 2014.
10. In the absence of any other action by Council, those sections of the *Animals Local Law 2001*, namely s9 and s10 and all areas specified in Schedule 2 and 3 of the local law will be inoperable.
11. The provision of a sunset date makes the removal of the local law under Section 3.12 of the *Local Government Act 1995* unnecessary.
12. The Department of Local Government and Communities recommend that should Council wish to specify dog exercise areas or places where dogs are prohibited absolutely it must do so by council resolution in accordance with the amendment to Section 31 of the *Dog Act 1976*.
13. Such resolution must be advertised for a minimum period of twenty eight days before the specified areas take effect.
14. In order to make allowance for assistance dogs, the resolution should be consistent with the *Disability Discrimination Act 1992 (Commonwealth)*.

#### **GOVERNMENT AND PUBLIC CONSULTATION**

15. Detailed at paragraph 12 of this report.

#### **STATUTORY IMPLICATIONS**

16. Current dog exercise and prohibited areas are outlined under the *City of Albany Animals Local Law 2001*. Regulation 37(1) *Dog Regulations 2013* removes these parts of the local law.
17. Any control of dogs in these circumstances must now be enacted under statute law.
18. Section 31 *Dog Act 1976*, as amended, outlines the control of dogs in certain public places.
19. Section 31(2B) states: ‘ A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, specify a public place or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited (a) at all times or (b) at specified times.’
20. Section 31(3A) states: ‘A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.

**RISK IDENTIFICATION & MITIGATION**

- 21. The process to replace sections of the existing *Animals Local Law 2001* must be implemented prior to their cessation on 31 July 2014 to allow for continuity.
- 22. A significant delay in this process could result in unrestricted access by dogs and their owners to areas previously outlawed. The consequence of this is potential conflict between opposing community user groups and their expectations of the City’s facilities.
- 23. There is a moderate risk of injury to community members should such a conflict occur.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Environment.</b> <i>Unrestricted access by dogs to all areas</i>	<i>Likely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Council resolution to declare existing exercise and prohibited areas under new legislation.</i>
<b>People Health and Safety.</b> <i>Dog attack as a result of miscommunication or conflict of area usage</i>	<i>Possible</i>	<i>Moderate</i>	<i>High</i>	<i>Support of Council resolution through signage and advertising of need for change in process. Support change with proactive public information concerning exercise and prohibited areas.</i>

**LEGAL IMPLICATIONS**

- 24. At least 28 days before specifying a place to be either a place that dogs are prohibited at all times or a dog exercise area, Council must give local public notice as defined in the *Local Government Act 1995* section 1.7 of its intention to so specify.
- 25. As a result of the new Dog Regulations the following local laws are effected:
  - a. Local Government Property Local Law 2011 (in relation to Airport).
  - b. Animals Local Law 2001 (in relation to prohibited and exercise areas).

**ENVIRONMENTAL CONSIDERATIONS**

- 26. There are no direct environmental considerations related to this item; however appropriate dog control has a direct effect on the natural environment.

**ALTERNATE OPTIONS**

- 27. If Council wishes to determine additional, new or modify the current dog exercise areas that that is done as a separate process.

**SUMMARY CONCLUSION**

- 28. Changes to State legislation have made it necessary for local governments to consider the implications on existing local laws and requirements. As previously outlined, this process must occur before 31 July 2014 to allow a seamless transition.
- 29. On the recommendation of the Department of Local Government and Communities, a council resolution is required to declare areas as either dog exercise areas or dog prohibited areas specifically, with the exception of assistance dogs.
- 30. It is recommended that the Responsible Officer recommendation be adopted.

<b>File Number (Name of Ward)</b>	:	Synergy File Number (and/or Ward Name if applicable)
<b>Previous reference</b>	:	Adoption of the Local Government Property Local Law 2011, 15 July 2011.

**PD038: ADVERTISE DRAFT ‘RESIDENTIAL BUILDING’ POLICY**

<b>Land Description</b>	: City of Albany
<b>Proponent</b>	: City of Albany
<b>Owner</b>	: City of Albany
<b>Business Entity Name</b>	: N/A
<b>Attachments</b>	: Draft ‘Residential Building’ Policy
<b>Appendices</b>	: Nil
<b>Councillor Workstation</b>	: Nil
<b>Responsible Officer(s)</b>	: Executive Director Planning & Development Services (D Putland)

**Responsible Officer’s Signature:**



**In Brief:**

- ‘Residential Buildings’ are intended to house persons who do not comprise a family, for temporary or permanent periods.
- Local residents have voiced concern that a ‘Residential Building’ used for temporary or permanent accommodation by persons who do not comprise a family will reduce property values and change the ambience of a neighbourhood by increasing traffic flow and introducing disruptive behaviour.
- The *Residential Tenancies Act 1987* enables a lessor of a Residential Building to give notice of termination to a tenant upon the ground that the tenant has breached a term of an agreement and the breach has not been remedied.
- Council is asked to support the advertising of a draft ‘Residential Building’ Policy, which has been developed to regulate the use and development of ‘Residential Building’s’ as a means to limit impact to neighbourhoods.

**RECOMMENDATION**

**ITEM PD038: COMMITTEE RECOMMENDATION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council:**

1. Adopts the draft ‘Residential Building’ policy, for advertising, for a period of 28 days with the following modification:
2. Prior to it being advertised, Officers to define “Manager”, “Temporary” and “Permanent”.
3. Point 12 – Remove first two lines to read “Council may specify requirements to improve”
4. Include Annual inspections.

ITEM PD038: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR BOWLES  
SECONDED: MAOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 8-1

**Record of Vote**

Against the Motion: Councillor Hammond

ITEM PD038: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council Adopts the draft 'Residential Building' policy, for advertising, for a period of 28 days.

**STRATEGIC IMPLICATIONS**

1. This item relates directly to the following element of the *Community Strategic Plan "Albany 2023"*: *To advocate, plan and build friendly and connected communities.*

**BACKGROUND**

2. In February 2014, an application for a 'Residential Building' at Lot 21, 19 Premier Circle, Spencer Park was advertised to the local community. 184 submission objected to the proposal for reasons including:
  - a. Change to the ambience of the local area;
  - b. Inadequate on-site parking;
  - c. Increased traffic flow;
  - d. Increased potential of disruptive behaviour;
  - e. Decline in property values; and
  - f. Without a live-in supervisor, disruptive issues would be difficult to deal with.
3. On the 25 February 2014, Council resolved to
  - (1) Develop and adopt a City of Albany Local Crisis Housing Strategy Position/Policy that defines:
    - (a) Suitable locations, that enable access to social services (such as: general practitioners, hospitals, counselling), public transport and employment assistance.
    - (b) The facility management structure and conditions that will protect those in crisis and neighbouring residents.
  - (2) Identify and allocate funding in the current and future budgets to undertake the following activities, for the purpose of (1) above:
    - (a) Research and Identify potential locations that would be most suitable for this type of housing arrangement; and
    - (b) Examine other housing models as used in other jurisdictions; and
    - (c) Identify potential opportunities for Council to assist with the provision of support services to enable such facilities to remain sustainable. "
4. On the 10 April 2014, staff from the City of Albany participated in a workshop for 'Homelessness'. Issues that were raised at the workshop included:

- a. There exists in Albany, an inability of the private rental market to cater successfully for persons on low incomes and who are homeless.
  - b. A key initiative in the State Government's Affordable Housing Strategy 2010-2020: *Opening Doors to Affordable Housing*, is to deliver more housing for low income and homeless persons;
  - c. The affordability gap is set to widen further as population grows and with an ageing population;
  - d. The National Housing Supply Council 2010 (NHSC) estimates that as much as two-thirds of new housing development that will take place over the next ten years in Australia will be achieved through infill development and unless fear towards 'Residential Buildings' in the community is broken down, opposition to applications for 'Residential Buildings' will only increase.
5. Student accommodation and other forms of communal housing maybe in demand and could result in the requirement to develop more Residential Buildings.

## **DISCUSSION**

6. As per the definition stated above for a Residential Building, there are two types of Residential Buildings.

### Residential Building

7. A 'Residential Building' is defined within the *Residential Design Codes* as follows;

*"A building or portion of a building, together with rooms and outbuildings separate from such building but incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation:*

- a. *Temporarily by two or more persons; or*
  - b. *Permanently by seven or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school."*
8. Any residential building has the potential to affect the amenity of an area regardless of the profile of the occupants of the building.
9. Type (a) is a Residential Building in which persons are housed for temporary periods. Examples of this type of housing in Albany include:
- a. 'Young House': crisis accommodation (12-25 year olds) with 8 single rooms.
  - b. 'Shalom House': crisis accommodation; and
  - c. St Vincent de Paul Society 'Prospect House': men's night shelter.
10. Type (b) is a Residential Building in which seven or more persons who do not comprise a single family are housed permanently. The types of persons residing within this type of accommodation may include students or refugees.

Community Concerns

11. Local residents have voiced concern that a 'Residential Building' used for temporary or permanent accommodation by persons who do not comprise a family will reduce property values and change the ambience of a neighbourhood by increasing traffic flow and introducing disruptive behaviour.

Residential Tenancies Act 1987

12. The *Residential Tenancies Act 1987* regulates the relationship of leasing authority's and tenants.
13. The Act enables a lessor to give notice of termination to the tenant upon the ground that the tenant has breached a term of an agreement, such as disruptive behaviour, and the breach has not been remedied.

Policy Content

14. The Policy in question seeks to regulate use and development of 'Residential Buildings' as a means to appease community concerns and maintain the character of a neighbourhood by ensuring that:
- a. A Residential Building intended to be used for a temporary period by two or more persons has a live in manager appointed to care and manage the Residential Building and its tenants;
  - b. The design of a 'Residential Building' is to be compatible with the character of existing developments in the locality;
  - c. Tenants of a Residential Building are to agree to terms of tenancy in accordance with the Residential Tenancies Act 1987. The lessor is to give a copy of the information prescribed for the purposes of an agreement to the tenant;
  - d. A lessor of a Residential Building is to give notice of termination to the tenant upon the ground that the tenant has breached a term of the agreement and the breach has not been remedied in accordance with the Residential Tenancies Act 1987; and
  - e. One (1) car-parking space is to be provided for every two beds.

Temporary Planning Approval

15. In accordance with the Local Planning Scheme 1, Clause 10.6, the Local Government can grant planning approval with a condition limiting the period of time for which an approval is granted.
16. Time limits may be imposed where Council is concerned that a use may impact on the amenity of an area.
17. The Policy as it stands does not entertain limiting the period of time for which a Residential Building can operate to provide security to a potential business owner/operator.
18. The Policy seeks to manage concerns over potential impact on amenity of an area by requiring:
- a. A live in manager for a Residential Building that's accommodating persons for a temporary period; and
  - b. A management plan that details behaviour standards.

**GOVERNMENT & PUBLIC CONSULTATION**

19. If the Council resolves to support the draft ‘Residential Building’ policy for advertising:

- a. a notice of the proposed Local Planning Policy, is to be placed, once a week for two consecutive weeks in a newspaper circulating in the Scheme area, giving details of:
  - i. Where the draft Local Planning Policy can be inspected;
  - ii. The subject and nature of the draft Local Planning Policy; and
  - iii. In what form and during what period (being not less than 21 days from the day that the first notice is published) submissions may be made.

20. After expiry of the period within which submissions may be made, 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. A ‘Residential Building’ is not permitted in the ‘Residential’, Tourist Residential’ and ‘Regional Centre’ zones unless the Local Government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 9.4 of the *Local Planning Scheme 1*.

22. The following Acts have some bearing on the development and use of ‘Residential Buildings’:

- a. The *Housing Act 1980*, which looks to improve existing housing conditions and to govern the letting of housing;
- b. The *Disability Services Act 1993*, which ensures that services are provided for people with disabilities;
- c. The *Mental Health Act 1996*, which looks to provide for the care, treatment and protection of persons who have mental illness; and
- d. The *Residential Tenancies Act 1987*, which regulates the relationship of leasing authority’s and tenants;
- e. The *Building Act* and *Building Regulations*, which requires developments to cater for people with disabilities and to provide, hardwired smoke alarms.

**POLICY IMPLICATIONS**

23. The State Governments *Affordable Housing Strategy: 2010-2020 Opening Doors to Affordable Housing* relates somewhat to the development of ‘Residential Buildings’. A key initiative of this strategy is the delivery of more housing for low income earners.

**RISK IDENTIFICATION & MITIGATION**

24. The following indicates the risk to the City in making a decision to support or not support the ‘Residential Building’ Policy:

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Advertising the proposed policy could give rise to objectionable comments from the general public, who have previously voiced strong objection to supporting a ‘Residential Building’.</i>	<i>Possible</i>	<i>Low</i>	<i>Low</i>	<i>Provisions have been included in the draft policy to address community concerns such as impact, the result of disruptive behaviour.</i>



**FINANCIAL IMPLICATIONS**

25. There are no financial implications beyond what has already been budgeted for advertising.

**LEGAL IMPLICATIONS**

26. There is no legal implication relating to resolving to advertise a draft policy, which is seeking to manage the use and development of 'Residential Buildings'.

**ENVIRONMENTAL CONSIDERATIONS**

27. There are no environmental considerations pertaining to resolving to advertise a draft policy, which is seeking to manage the use and development of 'Residential Buildings'.

**ALTERNATE OPTIONS**

28. Council may determine that the proposed policy is unacceptable and may resolve to refuse advertising.

**SUMMARY CONCLUSION**

29. Local residents believe 'Residential Buildings' will change the ambience of a neighbourhood by increasing traffic flow and introducing disruptive behaviour.

30. Bearing this in mind, the policy looks to ensure appropriate management and design measures are implemented such that once a 'Residential Building' is up and running, the neighbourhood remains appealing, safe and quiet.

31. This item requests that Council supports the advertising of the 'Residential Building' Policy.

<b>Consulted References</b>	:	<ol style="list-style-type: none"> <li>1. <i>Local Planning Scheme 1</i></li> <li>2. <i>Local Planning Scheme 1 Policy Manual</i></li> <li>3. <i>Housing Act 1980,</i></li> <li>4. <i>Disability Services Act 1993,</i></li> <li>5. <i>Mental Health Act 1996,</i></li> <li>6. <i>Residential Tenancies Act 1987,</i></li> <li>7. <i>Building Act and Building Regulations</i></li> <li>8. <i>Affordable Housing Strategy: 2010-2020 Opening Doors to Affordable Housing</i></li> </ol>
<b>File Number (Name of Ward)</b>	:	N/A
<b>Previous Reference</b>	:	OCM 19/04/11 - Item 1.1 Final Adoption of Policy Manual

**PD039: PLANNING AND BUILDING REPORTS MAY 2014**

**Proponent** : City of Albany  
**Attachment** : Planning and Building Reports May 2014  
**Responsible Officer(s):** : Executive Director Planning & Development Services  
(D Putland)

**Responsible Officer's Signature:**



**RECOMMENDATION**

**PD039: RESPONSIBLE OFFICER RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council NOTE the Planning and Building Reports for May 2014.**

14. **NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL**
  15. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN Nil**
  16. **REPORTS OF CITY OFFICERS**
  17. **MEETING CLOSED TO PUBLIC.**
- CSF096: RENEWAL OF CHIEF EXECUTIVE CONTRACT-CONFIDENTIAL
18. **CLOSURE.**