



AGENDA

Ordinary Meeting of Council

Tuesday 25 August 2015

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.

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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	R Hammond
Frederickstown Ward	G Stocks
Frederickstown Ward	C Dowling
Kalgan Ward	J Price
Kalgan Ward	B Hollingworth
Vancouver Ward	S Bowles
Vancouver Ward	N Mulcahy
West Ward	A Goode JP
West Ward	G Gregson
Yakamia Ward	R Sutton
Yakamia Ward	A Hortin JP

Staff:

Chief Executive Officer	A Sharpe
Deputy Chief Executive Officer	G Adams
Executive Director Planning and Development	D Putland
Executive Director Economic Development and Commercial Services	C Woods
Executive Director Community Services	A Cousins
Executive Director Works and Services	M Thomson
Meeting Secretary	J Williamson

Apologies:

Breaksea Ward	V Calleja JP (Leave of Absence)
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4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest

5. REPORTS OF MEMBERS

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

The following question was taken on notice from Mr Rod Hedderwick at the Ordinary Council Meeting held Tuesday 28 July 2015:

“Will the moratorium delay or adversely affect the Oyster Harbour Joint Venture land that is currently zoned agricultural?”

Executive Director Planning and Development has provided the following response:

“The City considers that development of the Oyster Harbour Joint Development land that is currently zoned agriculture will be rezoned and developed in accordance with the endorsed structure plan, and that planning for the site will not be delayed or adversely affected by the moratorium on subdivision of productive agricultural land”.

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 28 July 2015, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

11. PRESENTATIONS

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS Nil.

**ED024: ALBANY VISITOR CENTRE-OPERATIONAL AND
PERFORMANCE REVIEW**

Land Description : Albany Visitor Centre, Albany, Western Australia
Proponent : City of Albany
Owner : City of Albany
Business Entity Name : Albany Visitor Centre
Report Prepared by : Executive Director Economic Development and Commercial Services (C Woods)
Responsible Officer : Executive Director Economic Development and Commercial Services (C Woods)

Responsible Officer's Signature:



CONFIDENTIAL

This item is confidential and not for further distribution in accordance with section 5.23 (2a) of the Local Government Act 1995 a matter affecting City of Albany Employees.

RECOMMENDATION

**ED024: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

That Council:

- 1) RECEIVE the Confidential Operational and Performance Review of the Albany Visitor Centre.**
- 2) NOTE the conclusions and SUPPORT in principal the recommendations in the Confidential Operational and Performance Review of the Albany Visitors Centre with a further report to be brought back to the Economic Development Committee.**

CS022: INTERIM COUNCIL POLICY - COMMUNITY SPORT AND RECREATION FACILITIES SMALL GRANT FUNDING

Proponent : City of Albany
Attachments : Draft Interim Council Policy – Community Sport and Recreation Small Grant Funding
CSRFF LGA Project Assessment Sheet
Correspondence ICR15184747
Report Prepared by : Manager Recreation Services (S Stevens)
Responsible Officer : Executive Director Economic Development and Commercial Services (C Woods)

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 2014-2018:
 - a. **Key Theme:** A Sense of Community
 - b. **Strategic Objective:** To create interesting places, spaces and events that reflects our community's identity, diversity and heritage.
 - c. **Strategic Initiative:** A balanced and equitable range of sport and recreation facilities which are appropriate for users

In Brief:

- Provide an equitable and transparent framework for the assessment and ranking of all Department of Sport and Recreation (DSR) Community Sporting and Recreation Facilities Funds (CSRFF) Small Grant applications received from within its boundaries.
- Provide a framework for the allocation of the City of Albany Capital Seed Funds to assist with leveraging other funding opportunities and maximising the outcomes for the community.
- Provide a framework for the allocation of the Capital Seed Funds, should an applicant be unsuccessful in their application to Department Sport and Recreation (DSR) CSRFF.
- This policy exists to ensure all applications are part of a planned approach to facility provision and limits Councils contribution to one third of the project cost.

RECOMMENDATION

CS022: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ADOPT the attached Interim Community Sport and Recreation Facilities Small Grant Funding Council Policy.

CS022: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HORTIN

SECONDED: COUNCILLOR HORTIN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 4-0

CS022: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ADOPT the attached Interim Community Sport and Recreation Facilities Small Grant Funding Council Policy.

BACKGROUND

2. The City of Albany has considerable investment in the provision of sport and recreation facilities and supporting infrastructure and acknowledges the key role those provisions play in influencing health, well being and quality of life at a local level.
3. To adequately and appropriately plan, invest in and support the sport and recreation needs of our community requires strong strategic direction and clear and realistic planning.
4. The Department of Sport and Recreation (DSR) provides financial assistance to community groups and LGA's to develop basic infrastructure for sport and recreation through the Community Sporting and Recreation Facilities Fund (CSRFF).
5. The Community Sporting and Recreation Facilities Fund (CSRFF) administered by the Department of Sport and Recreation (DSR) will be reduced from an annual \$20 million program to a \$7 million program commencing in February 2016/2017. There will continue to be three rounds of available funds, including two small grant funding rounds per year and an annual and forward planning funding round.
6. The Small Grants Round targets community sport projects where the financial value of the total project is from \$5,000 up to \$200,000 and is delivered within a 12 month period. The Annual Grant Round targets community sport projects where the financial value of the total project is from \$150,000 up to \$500,000 and is delivered within a 12 month period
7. The land on which the facility is to be developed must be one of the following:
 - Crown reserve
 - Land owned by a public authority
 - Municipal property
 - Land held for public purposes by trustees under a valid lease, title or trust deed that adequately protects the interests of the public.
8. CSRFF applicants must liaise with their Local Government regarding planning and building approvals pertinent to their project and demonstrate equitable access to the public on a short term and casual basis.
9. The Local Government is required to assess all relevant CSRFF applications and to rank applications in priority order for the municipality and benefit to the community.
10. Whilst there is no obligation for Local Government to contribute to the community sporting project, local government is viewed as a key funding partner in supporting improved community sporting amenities.

11. The current financial contribution from DSR for 'standard' successful applications is a maximum of one third of the total estimated project costs (excluding GST). The Capital Seed Fund was established to help sport and recreation groups to leverage CSRFF with a 'matching contribution' of a maximum of one third of the total estimated project costs (excluding GST).
12. The applicant must provide a minimum of one third of the total estimated project costs (excluding GST), which may be a combination of cash, voluntary labour and donated materials. Within the CSRFF guidelines the applicant's non cash contribution cannot exceed the applicant's cash contribution to the total project cost.
13. The City is currently developing a comprehensive and integrated **City of Albany Sport and Recreation Futures Plan (2015 – 2030)** which will guide strategic planning for the sport and recreation facilities and programs for the next 15 years. This project will be completed by December 2015.

DISCUSSION

14. The Community Sporting and Recreation Facilities Fund (CSRFF) is a state wide, competitive tender process. It is important that sporting and recreational clubs and groups align with the DSR priorities and guidelines to ensure eligibility. All three rounds of CSRFF are oversubscribed and clubs may need to reapply on a number of occasions to be successful. Recreation Services provides guidance and assists clubs with the application process.
15. A key component of the funding process is the engagement of key stakeholders in the facility planning process. Applicants must contact their LGA, their DSR regional office and their State Sporting Association (SSA) to show strong community consultation and forward planning. An important part of the funding process is to make sure the community can bear the true cost of running and maintaining a facility well into the future.
16. From 2006 – 2013 (7 years) the City did not financially contribute to the Department's CSRFF funding program model. In the 2013/2014 budget the City of Albany established a *Capital Seed Fund* (Community Sporting Infrastructure Funding Support program) to assist and support community sport and recreation groups to develop basic sport and recreation infrastructure.
17. The City of Albany is starting to receive increased requests for financial support and at present there is no strategic direction or policies to assist with identifying the priority projects for the *Capital Seed Fund*, how best to leverage CSRFF or other funding for the sport and recreation community. The proposed policy provides a framework for the application of the Capital Seed Funds and to assist officers with managing community expectations.
18. In addition, there is limited direction or policies to assist with guiding applicants or provision of financial support, should they be unsuccessful with their application. The proposed policy provides a framework for applicants should they be unsuccessful and how Council may consider their application.
19. Until the City of Albany Sport and Recreation Futures Plan is adopted, it is recommended this Policy be ADOPTED to provide a planned, equitable and transparent framework for the assessment and ranking of CSRFF and Capital Seed Funds, which aligns with Council's strategic objectives.

GOVERNMENT & PUBLIC CONSULTATION

- 20. The Department of Sport and Recreation’s Regional Manager - Great Southern has been consulted on the proposed policy and process for assessment and ranking of CSRFF applications.
- 21. The policy has been tabled and acknowledged at the Department of Sport and Recreation’s Regional Manager’s State Wide annual meeting for review and comment.
- 22. The City of Albany is preparing a communication strategy and risk register to identify and managing potential risks.
- 23. The Presidents Forum will be used to consult and inform key sport and recreation clubs about the policy.

STATUTORY IMPLICATIONS

- 24. While there is no statutory requirement, Council has the opportunity to provide a recommendation that ranks sport and recreation clubs applications in priority order for the City of Albany. It should be noted that the Department of Sport and Recreation will make the final decision on CSRFF funding allocation for any applications.

POLICY IMPLICATIONS

- 25. The City of Albany’s Recreation Planning Strategy expired in 2013. At present there is broad strategic direction through the City of Albany Strategic Community Plan. However, there is no direct sport and recreation strategic direction or policies to assist with identifying the priority projects for the capital seed funding and how best to leverage CSRFF and other funding for the community.
- 26. The City is currently developing a comprehensive and integrated **City of Albany Sport and Recreation Futures Plan (2015 – 2030)** which will guide strategic planning for the sport and recreation facilities and programs for the next 15 years. This project will be completed by December 2015.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Community & Reputation <i>Failure to provide an equitable framework & allocation may result in community backlash and dissatisfaction.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Support the policy, or work with City officers to address issues.</i>
Reputation & Community Property. <i>Failure to contribute & secure required funding may result in the condition of community amenities deteriorating to an unsafe condition.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Support the policy, or work with City officers to source other funding streams.</i>
Reputation & Financial. <i>Failure to upgrade facilities may result in missed economic and social opportunities that result from attracting and hosting events.</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Support the policy or work with City officers to source other funding streams.</i>

FINANCIAL IMPLICATIONS

- 28. The Capital Seed Reserve Fund has been established to assist with leveraging CSRFF for sporting and recreational clubs.
- 29. Funds from unsuccessful grant applications are returned to the Capital Seed Reserve Fund to be reused for other grant applications.

LEGAL IMPLICATIONS

- 30. N/A

ENVIRONMENTAL CONSIDERATIONS

- 31. N/A

ALTERNATE OPTIONS

- 32. Council can choose not to adopt the policy.
- 33. Council can modify or request changes to the policy.

SUMMARY CONCLUSION

- 34. The Department of Sport and Recreation requires local government to rank, in order of priority, all CSRFF applications received from within its boundaries.
- 35. This policy provides an equitable and transparent framework for the assessment and ranking of CSRFF and capital seed funds that aligns with Councils strategic objectives.
- 36. This policy exists to ensure all applications are part of a strategic approach to facility provision.
- 37. This policy will assist with guiding applicants and allocation of City funds should an applicant be unsuccessful.
- 38. This policy will be reviewed, amended and included as part of the City of Albany Sport and Recreation Futures Plan (2015 – 2030) broader suite of assets.

Consulted References	:	Nil
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	Nil

**CS023:COMMUNITY SPORTING AND RECREATION FACILITIES FUND
2015/2016 SMALL GRANT ROUND APPLICATIONS**

Proponent : City of Albany
Attachments : Greenrange Country Club Correspondence and Project Assessment Sheet
Manypeaks Cricket Club Correspondence and Project Assessment Sheet
Elleker Progress Association (City of Albany) Correspondence and Project Assessment Sheet
Albany Golf Club Project Correspondence and Assessment Sheet
Report Prepared by : Manager Recreation Services (S Stevens)
Responsible Officer : Executive Director Economic Development and Commercial Services (C Woods)

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 2014-2018:
 - a. **Key Theme:** A Sense of Community
 - b. **Strategic Objective:** To create interesting places, spaces and events that reflect our community's identity, diversity and heritage
 - c. **Strategic Initiative:** Sport & Recreation Infrastructure

In Brief:

- To seek Council endorsement of the priority ranking for the submitted Community Sport and Recreation Facility Fund (CSRFF) small grant funding round applications.
- Seek Council's support to provide funding assistance in line with the draft Council Policy: Community Sports & Recreation Facilities to the Manypeaks Cricket Club, Greenrange Country Club, Elleker Progress Association (City of Albany) and Albany Golf Club upon return of successful CSRFF small grant applications.

RECOMMENDATION

**CS023: COMMITTEE RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council RANK the CSRFF Small Grant Applications in the following order for the August 2015 Funding Round:

1. **Greenrange Country Club – Ablution Replacement (ranked one of four)**
2. **Manypeaks Cricket Club – Oval Refurbishment (ranked two of four)**
3. **Elleker Progress Association - Oval Upgrade (City of Albany) (ranked three of four)**
4. **Albany Golf Club – Replacement of the Greenkeepers Shed (ranked four of four)**

CS023:COMMITTEE RECOMMENDATION 2

That subject to the Department of Sport and Recreation allocating CSRFF funds to the applicants , Council **ALLOCATES** the following funding amounts to the successful applicants from the 2015/2016 budget:

1. **Greenrange Country Club - \$32,500**
2. **Manypeaks Cricket Club - \$14,266**
3. **Elleker Progress Association - \$8,233**
4. **Albany Golf Club - \$25,000**

CS023: COMMITTEE RECOMMENDATION 1

MOVED: COUNCILLOR MULCAHY

SECONDED: COUNCILLOR HORTIN

THAT the Responsible Officer Recommendation 1 be ADOPTED.

CARRIED 4-0

CS023: RESPONSIBLE OFFICER RECOMMENDATION 1

THAT Council RANK the CSRFF Small Grant Applications in the following order for the August 2015 Funding Round:

1. Greenrange Country Club – Ablution Replacement (ranked one of four)
2. Manypeaks Cricket Club – Oval Refurbishment (ranked two of four)
3. Elleker Progress Association - Oval Upgrade (City of Albany) (ranked three of four)
4. Albany Golf Club – Replacement of the Greenkeepers Shed (ranked four of four)

CS023:COMMITTEE RECOMMENDATION 2

MOVED: COUNCILLOR HORTIN

SECONDED: COUNCILLOR MULCAHY

THAT the Responsible Officer Recommendation 2 be ADOPTED.

CARRIED 4-0

CS023: RESPONSIBLE OFFICER RECOMMENDATION 2

That subject to the Department of Sport and Recreation allocating CSRFF funds to the applicants, Council **ALLOCATES** the following funding amounts to the successful applicants from the 2015/2016 budget:

1. Greenrange Country Club - \$32,500
2. Manypeaks Cricket Club - \$14,266
3. Elleker Progress Association - \$8,233
4. Albany Golf Club - \$25,000

BACKGROUND

1. The Community Sport and Recreation Facilities Fund (CSRFF) administered by the Department of Sport and Recreation (DSR) has three rounds of available funds including:
 - Small grant funding round (Winter) - Current
 - Small grant funding round (Summer) - Pending
 - Annual and forward planning funding round (September)
2. The CSRFF program is currently a \$20 million program. The program will be reduced to \$7 million in the next financial year. All three rounds are often oversubscribed and clubs may need to reapply on a number of occasions to be successful.
3. The Small Grants Round targets community sport projects where the financial value of the total project is from \$5,000 up to \$200,000 and is delivered within a 12 month period.
4. Applicants must be either a local government authority or a not-for-profit sport or community organisation incorporated under the WA Associations Incorporation Act 1987.
5. Clubs must demonstrate equitable access to the public on a short term and casual basis.
6. The land on which the facility is to be developed must be one of the following:
 - Crown reserve
 - Land owned by a public authority
 - Municipal property
 - Land held for public purposes by trustees under a valid lease, title or trust deed that adequately protects the interests of the public.
7. Applicants must liaise with their Local Government regarding planning and building approvals pertinent to their project.
8. The Local Government has an opportunity to assess all relevant applications and to rank applications in priority order for the municipality.
9. Whilst there is no obligation for Local Government to contribute to the community sporting projects local government is viewed as a key funding partner in supporting improved community sporting amenities.
10. The Department of Sport and Recreation application form calls for applications to be initially submitted to the Local Government within which the project proposal is located.
11. An element of the assessment process involves Council consideration and priority ranking of applications received. The applications are then submitted to the Department of Sport and Recreation on behalf of the applicants prior to August 29 2015.
12. Once the assessment process from Local Government Authorities are complete all applications received from Western Australian organisations are assessed by the relevant State Sporting Association and the Department of Sport and Recreation CSRFF Committee against a number of criteria, with the final decision on funding being at the discretion of the Minister for Sport and Recreation.

DISCUSSION

13. The grant guidelines require Council to provide a ranking for the projects.
14. The Department of Sport and Recreation provides guidance for Local Government Authorities to assess each submission. This assessment uses the following criteria and a project rating of satisfactory/unsatisfactory or not relevant:
 - Project justification
 - Planned approach
 - Community input
 - Management planning
 - Access and opportunity
 - Design
 - Financial viability
 - Coordination
 - Potential to increase physical activity
 - Sustainability

With overall project rating, being:

- Well planned and needed by municipality
 - Well planned and needed by applicant
 - Needed by municipality, more planning required
 - Needed by applicant, more planning required
 - Idea has merit, more planning work needed
 - Not recommended.
15. Applications have been ranked on the strength of the applications, participation numbers, ability to increase physical activity and potential impact as well as consultation with the Department of Sport and Recreation and the applicant.
 16. The following additional information is provided about the projects and funding application:

Greenrange Country Club – Ablution Replacement and Upgrade

- The funding application is a small grants application to demolish and rebuild the toilets to meet the disabled toilet standards (\$195,076).
- Located 70 km out of Albany the Greenrange Country Club is the social and sporting hub of the community. The country club has a membership of approx 100.
- The toilets have reached the end of the life and at larger functions overflow and stop working.
- The Country Club is used by a number of clubs including cricket, bowls, golf and hosts numerous community group meetings. The club has a disabled person in a wheelchair that requires access to the toilets.
- The replacement of the ablutions will increase the clubs capacity to attract and retain members.
- Current Financial Statements: Total of \$115,156 as per bank statements.
- Greenrange is contributing both cash and volunteer labour to the project.
- Greenrange has discussed the project with GSDC and been advised that the project is eligible for funding. If the club applies and is successful in an application to Royalties for Regions Application it may reduce the City's contribution.
- Application was well written and well researched.
- DSR Great Southern Regional Manager assessed the project as having a high priority.

Manypeaks Cricket Club – Oval Refurbishment Installation of Reticulation and a Bore

- The funding application is a small grants application to install reticulation on the oval and the sinking of a bore for water supply (\$42,799.99)
- Located 40km out of Albany the Manypeaks Cricket Club has a membership of approx. 50.
- The club forms part of the Albany Senior Cricket Association and regularly host competition games as part of the regional competition.
- The refurbishment of the oval directly relates to and impacts on the club's ability to deliver their sport and competitions.
- Current Financial Statements: \$16,256 as per bank statements.
- Manypeaks is contributing cash - one third of the project costs.
- Application was well written and well researched.
- DSR Great Southern Regional Manager assessed the project as having a high priority.

Elleker Progress Association (City of Albany) – Upgrade existing oval surface, drainage, soil and turf cover require improvement

- The funding application is a small grants application to upgrade the existing oval including installation of drainage and improvements to the turf (\$23,000).
- Located 15 km out of Albany the Elleker Oval is the social and sporting hub of the community. The progress has a membership of approx 45. There is currently 1 oval with a cricket pitch.
- The oval is unusable in winter months and is of a poor quality. This project directly relates to and impacts on the association's ability to deliver their community's sporting activities.
- This infrastructure has the potential to increase the activity on the oval and provide an alternative venue to relocate sports to during the redevelopment of Centennial Park. The works will provide ongoing positive benefits to the community.
- Current Financial Statements: \$4,135 as per bank statements
- Elleker Progress Association is contributing cash and volunteer labour. Just less than one third of the project costs. Requesting that the City contribute the balance.
- DSR Great Southern Regional Manager assessed the project as having a medium priority.

Albany Golf Club – Replacement of the Greenkeepers Shed

- The funding application is a small grants application to replace the Greenkeepers Shed with a larger more contemporary shed (\$150,400).
- Located at Middleton Beach the club has a membership of approx 515.
- The shed is no longer fit for purpose. A new shed would allow staff to work in a safe environment and ensure the efficient running of the golf course.
- Current Financial Statements: Indicates that the Golf Club can draw down on its business loan \$435,846.64 (April 2015). The club has an operating account of \$17,000.
- Albany Golf Club is contributing cash and volunteer labour.
- DSR Great Southern Regional Manager assessed the project as having a medium priority.

17. The below ranking recommendation has been provided based on the applicant meeting the required criteria and its overall project ranking:

Rank	Organisation	Project Detail	Overall Project Rating
1.	Greenrange Country Club	Ablution replacement and upgrade (Disability Standards)	Well planned and needed by applicant.
2.	Manypeaks Cricket Club	Upgrade to the existing oval surface including reticulation and water bore	Well planned and needed by applicant.
3.	Elleker Progress Association (City of Albany)	Upgrade existing oval surface including drainage, soil and turf cover	Well planned and needed by applicant.
4.	Albany Golf Club	Replacement of the Greenkeepers Shed	Well planned and needed by applicant.

18. The below ranking recommendation has been provided based on the applicant meeting the required criteria and its overall project ranking:

19. Correspondence requesting financial assistance and a completed Officers Project Assessment Sheet for each application is attached:

- Greenrange Country Club
- Manypeaks Cricket Club
- Elleker Progress Association
- Albany Golf Club

GOVERNMENT & PUBLIC CONSULTATION

20. The Department of Sport and Recreation’s Regional Manager for the Great Southern has been consulted with by all applicants and the City of Albany.
21. The City of Albany has conducted site visits and has provided advice on the council processes and support with the grant applications for all applicants.

STATUTORY IMPLICATIONS

22. There is no statutory requirement.
23. Council Officers assess each project and makes a recommendation for the ranking of projects based on the DSR criteria and strategic overview.
24. Council has the opportunity to provide a recommendation that ranks applications in priority order for the City of Albany.
25. It should be noted that the Department of Sport and Recreation will make the final decision on funding allocation.

POLICY IMPLICATIONS

26. The Recreation Planning Strategy adopted in 2008 has been applied in ranking the submissions.
27. Numbered paragraph.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation & Community Property. Failure to secure required funding may result in the condition of the amenities deteriorating to an unsafe condition.	Possible	Moderate	Medium	Support the funding application, or work with City officers to source other funding streams.
Reputation & Financial. Failure to upgrade facilities may result in missed economic and social opportunities.	Possible	Moderate	Medium	Support the funding application, or work with City officers to source other funding streams.
Reputation & Financial. Failure to distribute the Councils Financial Support in an equitable and sustainable manner may result in community dissatisfaction or projects not going ahead.	Possible	Moderate	Medium	Support the officer’s recommendation, or work with City officers to deliver an equitable allocation of funding.

FINANCIAL IMPLICATIONS

- 29. The City allocated a total of \$75,000 Capital Seed Funding for Sporting Clubs in the 15/16 financial year to assist in the development and maintenance of community sporting infrastructure as determined through the CSRFF funding process.
- 30. The Capital Seed Reserve Fund has been established to assist with leveraging State Government funds for sporting clubs. Funds from unsuccessful grant applications are returned to the Capital Seed Reserve Fund to be reused for other grant applications. There is a closing balance of \$5,841 from the 2014/2015 budget. A total of \$80,841 is available for this financial year.
- 31. The projected total cost for all four projects is \$411,275.99. The clubs have requested a total of \$137,657.70 from Council.
- 32. The club requests exceed the amount of the Capital Seed Reserve Fund by \$56,816.70.
- 33. There is still one remaining small grants round for 2015/2016 financial year and it is likely that Council will receive further requests for financial contributions for that round.
- 34. The following table provides the budget detail and requests for financial support from the applications received:

35.

Organisation	Total project cost (ex GST)	Applicant contribution (ex GST) [inc voluntary component]	CSRFF Grant (ex GST)	Proposed Other state or federal funding (ex GST)	Request for Council Financial Support (ex GST)
Manypeaks Cricket Club	\$42,799.99	\$14,266.59	\$14,266.70	Nil	\$14,266.70
Greenrange Country Club	\$195,076	\$65,026	\$65,025	Nil	\$65,025
Elleker Progress Association (City of Albany)	\$23,000	\$7,100	\$7,667	Nil	\$8,233
Albany Golf Club	\$150,400	\$50,134	\$50,133	Nil	\$50,133
TOTAL	\$411,275.99	\$136,526.59	\$137,091.70		\$137,657.70

36. The officers recommendation is based on the following methodology:

- Both the Greenrange Country Club and the Albany Golf Club projects will qualify for other grants such as Royalty for Region Grants and Lotterywest Grants.
- Both Greerange Country Club and the Albany Golf Clubs have the ability to contribute more than one third from Club reserves or borrowings.
- The recommendation therefore is for the City to provide 16.5% of the total project cost to these applications which is half of the remaining one third contribution. The other two remaining projects will be funded as per the current Capital Seed Funding and CSRFF guidelines i.e. one third Council contribution. Please see the table below for a budget overview.

37. If all applications are successful there will be \$5,842 remaining for the next small grant round.

38. If applicants are unsuccessful, the Council contribution returns to the Capital Seed Funding Pool and clubs must reapply in the next round.

Organisation	Total project cost (ex GST)	Applicant contribution (ex GST) [inc voluntary component]	CSRFF Grant (ex GST)	Potential Other state or federal funding (ex GST)	Officer Recommendation - Council contribution (ex GST)
Manypeaks Cricket Club	\$42,799.99	\$14,266.59	\$14,266.70	Nil	\$14,266.70 (33%)
Greenrange Country Club	\$195,076	\$97,551	\$65,025	R4R &/or Lotterywest	\$32,500 (\$16.5%)
Elleker Progress Association (City of Albany)	\$23,000	\$7,100	\$7,667	Nil	\$8,233 (33%)
Albany Golf Club	\$150,400	\$75,267	\$50,133	R4R	\$25,000 (\$16.5%)
TOTAL	\$411,275.99	\$194,184.59	\$137,091.70		\$79,999.70

LEGAL IMPLICATIONS

39. Nil.

ENVIRONMENTAL CONSIDERATIONS

40. There are no environmental impacts associated with the, Manypeaks Cricket Club, Greenrange Country Club, Elleker Progress Association (City of Albany) and Albany Golf Club projects.

ALTERNATE OPTIONS

- 41. Council can change the priority order of the responsible officers recommended ranking for the projects.
- 42. Council can choose not to provide funding assistance to one or any of the four projects.
- 43. Council can choose to provide more or less funding assistance to one or any of the four projects.

SUMMARY CONCLUSION

- 44. The Department of Sport and Recreation provides local government with an opportunity to assess received applications and to rank applications in priority order for the municipality.
- 45. All four projects meet the criteria provided by the Department of Sport and Recreation. They are considered well planned and needed by the applicant. Council is required to endorse the officers ranking. City officers have ranked applications in the following order:
 - 1. Greenrange Country Club – Ablution Replacement (ranked one of four)
 - 2. Manypeaks Cricket Club – Oval Refurbishment (ranked two of four)
 - 3. Elleker Progress Association - Oval Upgrade (City of Albany) (ranked three of four)
 - 4. Albany Golf Club – Replacement of the Greenkeepers Shed (ranked four of four)
- 46. All four clubs have requested financial support from Council. There are currently insufficient funds in the Capital Seed Funding to cover the requested Council contribution. Council is not obliged to fund any of the projects.
- 47. Council may consider capping its financial contribution or sourcing alternate means to meet budget allocations.
- 48. The Department of Sport and Recreation requires a response from the City of Albany on the priority ranking order by 30 August 2015.

Consulted References	:	Nil.
File Number (Name of Ward)	:	RC.PRG.26 (All Wards)
Previous Reference	:	Nil.

**PD087: CONSIDERATION OF SCHEME AMENDMENT – LOT 1879
DAVIES ROAD, KALGAN**

Land Description	: Lot 1879 Davies Road, Kalgan
Proponent	: Ayton Baesjou Planning
Owner	: M J & B J O’Dea
Attachments	: 1. Map : 2. Albany Local Planning Strategy excerpts : 3. Local Planning Scheme Amendment No. 12 report
Report Prepared by	: Planning Officer (C McMurtrie)
Responsible Officer	: Executive Director Planning and Development(D Putland)

Responsible Officer’s Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. This proposal is consistent with the strategic direction set in the *Albany Local Planning Strategy*.
4. The City has currently imposed a moratorium on the initiation of significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.
5. Although this proposal seeks to create lots for rural living purposes, it is considered relatively minor and would constitute an area of infill in the established ‘Rural Residential’ planning unit. Therefore, it is considered that the proposal may be entertained, as it does not conflict with the current moratorium.

In Brief:

- A request has been submitted for Council to initiate a Local Planning Scheme Amendment to rezone Lot 1879 Davies Road, Kalgan from the ‘General Agriculture’ zone to the ‘Rural Residential’ zone and amend the Scheme Maps accordingly.
- City planning Staff support the proposal, as it is consistent with the strategic direction set in the *Albany Local Planning Strategy* and *State Planning Policy 2.5*.
- The proposal is considered to be relatively minor and would constitute an area of infill in the established ‘Rural Residential’ planning unit. As such, it may be entertained, as it does not conflict with the current moratorium on the initiation of significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.

RECOMMENDATION

**PD087: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council in pursuance of Section 75 of the Planning and Development Act 2005, amend the Local Planning Scheme by:

- (1) Rezoning Lot 1879 Davies Road, Kalgan from the ‘General Agriculture’ zone to the ‘Rural Residential’ zone; and
- (2) Amending the Scheme Maps accordingly.

PD087: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 6-0

PD087: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council in pursuance of Section 75 of the Planning and Development Act 2005, amend the Local Planning Scheme by:

- (1) Rezoning Lot 1879 Davies Road, Kalgan from the 'General Agriculture' zone to the 'Rural Residential' zone; and
- (2) Amending the Scheme Maps accordingly.

BACKGROUND

6. *Local Planning Scheme No. 1* was gazetted on 28 April 2014 and consists of the Scheme Text and the Scheme Maps. The Scheme divides the Local Government district into zones to identify areas for particular uses and identifies land reserved for public purposes. Most importantly, the Scheme controls the types of uses and development allowed in different zones. There are particular controls included for heritage and special control areas. The Scheme Text also sets out the requirements for planning approval, enforcement of the Scheme provisions and non-conforming uses.
7. Amendment No. 12 has been prepared to seek the rezoning of Lot 1879 Davies Road, Kalgan from the 'General Agriculture' zone to the 'Rural Residential' zone. The 'Rural Residential' zone is intended to provide for large residential lots in excess of one hectare in area and is considered a form of rural living.
8. Council has previously considered a Scheme Amendment Request to rezone Lot 1879 Davies Road, Kalgan from the 'Rural' zone to the 'Special Rural' zone, under former *Town Planning Scheme No. 3*, at its Ordinary Meeting on 18 May 2004, where it resolved:
"THAT Council advise the applicant that it is prepared to support the request for an Amendment to Town Planning Scheme No. 3 to rezone Pt Lot 1879 Davies Road, Kalgan from 'Rural' to 'Special Rural' subject to the Scheme Amendment addressing the following to the satisfaction of Council:
 - i) *detailed land capability assessment;*
 - ii) *protection of the creekline;*
 - iii) *protection of remnant vegetation;*
 - iv) *preparation of a Subdivision Guide Plan;*
 - v) *preparation of a Fire Management Plan;*
 - vi) *preparation of a Revegetation Plan;*
 - vii) *servicing details and arrangements; and*
 - viii) *visual amenity."*
9. These matters have been addressed within the amendment document.
10. The subject lot covers an area of 14.16ha and lies approximately 12km north-east of the Albany central area and approximately 300m north of Davies Road. The lot is landlocked and accessed via a driveway from Davies Road, across lot 331, to the south.
11. The surrounding land to the north and west is zoned 'Rural Residential' and is subject to the same planning controls that are proposed for the subject lot, while the land to the south and east is zoned 'General Agriculture'.

12. The amendment document states that:

“As the adjoining properties to the north and west have already been zoned for rural residential purposes and are currently subject to detailed subdivision application, the owners of Lot 1879 wish to extend that zoning so that infrastructure planning can be co-ordinated with the adjoining developer”.

DISCUSSION

13. The City’s planning Staff support the rezoning of Lot 1879 Davies Road, Kalgan from the ‘General Agriculture’ zone to the ‘Rural Residential’ zone, as it is consistent with the current strategic direction set by the *Albany Local Planning Strategy* (see Attachment 2) and *State Planning Policy 2.5*. It is also considered that the proposed rezoning is relatively minor, affects land that has been largely cleared of native vegetation, and that it would constitute an area of infill in the established ‘Rural Residential’ planning unit. In this context, the proposal can be entertained, as it does not conflict with the current moratorium on the initiation of significant Local Planning Scheme amendments to rezone agricultural land, or intensify adjacent sensitive land uses, other than those that promote ongoing productive use of the land.
14. The matters identified in Council’s resolution of 18 May 2004 on the previous Scheme Amendment Request have been adequately addressed in the amendment document and the subject lot is identified in the *Albany Local Planning Strategy* as being suitable for Special Residential development. The subject lot is located adjacent to Lots 11 and 1301 Nanarup Road, which form Rural Residential area No. 9. Lot 1301, to the west, is currently undergoing subdivisional works.
15. Fire management implications on the subject lot have been addressed through a fire management plan; all lots will be subject to an additional Scheme provision that will require construction of dwellings to *Australian Standard 3959 – Construction of Buildings in Bushfire-Prone Areas*. As the lot is currently landlocked and accessed via a driveway and easement over Lot 331 Davies Road, the proposed subdivision guide plan indicates a new access road from Lot 11, to the north.
16. The proposed subdivision guide plan indicates that the creekline will be covered by a creekline protection area and subject to a foreshore management plan.

GOVERNMENT & PUBLIC CONSULTATION

17. The *Town Planning Regulations 1967* require that a Local Planning Scheme amendment is initiated by a resolution of Council and that the consent of the Environmental Protection Authority and the Department of Planning is obtained, prior to the proposal being advertised for public comment. Consequently, no consultation has been undertaken at this stage.

STATUTORY IMPLICATIONS

18. Scheme amendments undergo a statutory process in accordance with the *Planning and Development Act 2005* and *Town Planning Regulations 1967*.
19. Section 75 of the *Planning and Development Act 2005* allows a local government authority to amend its local planning scheme with the approval of the Minister for Planning. Council resolution is sought for the initiation of a local planning scheme amendment.
20. *Regulation 25* of the *Town Planning Regulations 1967* sets out the process for amending the LPS.
21. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

22. The proposal is considered to be consistent with the key policy measures identified in Western Australian Planning Commission *State Planning Policy 2.5 – Land Use Planning in Rural Areas*.

23. *State Planning Policy 2.5* was gazetted in 2012 and has provided a comprehensive review and refinement of the previous *Development Control Policy 3.4 Rural Land Use Planning* (1989). The Western Australian Planning Commission and Local Government are required to have regard to *State Planning Policy 2.5* in planning for the development of rural areas.

24. The overarching policy requirements of *State Planning Policy 2.5* are:

- a) land use change from rural to all other uses is to be planned and provided for in a planning strategy or scheme;
- b) land identified as priority agricultural land in a planning strategy or scheme is to be retained for that purpose;
- c) beyond its principle function for primary production, rural land is also required for public purposes, natural resource management, biodiversity conservation and protection of landscapes and views;
- d) the use of rural land for intensive or emerging primary production land uses does not warrant creation of new or smaller rural lots on an unplanned, ad hoc basis; and
- e) Creation of new rural lots will be by exception and in accordance with *Development Control Policy 3.4 – Subdivision of Rural Land*, or planned in a strategy or scheme.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations, People Health and Safety and Reputation Subdivision and development of the subject lot could create additional dwelling entitlements at risk of bushfire.</p>	Possible	Severe	High	The proposal contains a Fire Management Plan and attendant Scheme provisions that are designed to mitigate the risk of bushfire and its impacts on any future dwellings and their residents. This will be achieved through adequate separation distances from remnant vegetation, implementation of relevant construction standards and other fire management measures.
<p>Organisational Operations and Reputation Supporting this proposal could lead to other landowners seeking to rezone agricultural land for rural residential purposes.</p>	Possible	Minor	Medium	The <i>Albany Local Planning Strategy</i> , as the principal land use planning strategy for the City, would guide Council's decision-making in other instances.
<p>Organisational Operations and Reputation The proposal may not be accepted by the Western Australian Planning Commission or the Minister for Planning.</p>	Unlikely	Minor	Low	If not supported by the Western Australian Planning Commission or Minister, the amendment will not be progressed and the City will advise the proponent that they may submit a modified proposal.
<p>Community, Organisational Operations and Reputation The proposal may attract objections from members of the public or other Government agencies.</p>	Unlikely	Minor	Low	Widely consulting with all parties who may be affected and all government agencies should mitigate any risk in this regard. If necessary, further information can be requested from the proponent as part of the amendment process.

FINANCIAL IMPLICATIONS

26. Nil.

LEGAL IMPLICATIONS

27. Nil.

ENVIRONMENTAL CONSIDERATIONS

28. The subject lot is largely cleared, with only small stands of trees remaining in the south-western quarter and in the north-eastern quarter, around the existing house and shed. The land slopes steeply downward from the north-east to the creekline that runs across the south-western corner of the lot. The proposed subdivision guide plan indicates that the creekline will be covered by a creekline protection area and subject to a foreshore management plan.

ALTERNATE OPTIONS

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

- To resolve to initiate the scheme amendment with modification; or
- To resolve not to initiate the scheme amendment.

SUMMARY CONCLUSION

30. It is recommended that Council initiate Local Planning Scheme Amendment No. 12, as it as the proposal is consistent with the strategic direction currently set within the *Albany Local Planning Strategy* and *State Planning Policy 2.5*.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i> 3. <i>City of Albany Strategic Community Plan 2023</i> 4. <i>City of Albany Corporate Business Plan 2013-2017</i> 5. WA Planning Commission <i>State Planning Policy 1 – State Planning Framework Policy (Variation No. 2)</i> and <i>State Planning Policy 2.5 – Land Use Planning in Rural Areas</i>.
File Number (Name of Ward)	:	LAMD12 (Kalgan Ward)
Previous Reference	:	OCM 18/05/04 – Item 11.3.2

PD088: CHANGE OF USE – USE NOT LISTED – PRIVATE FUNCTION CENTRE, LOT 100, 1 SHELLEY BEACH ROAD, KRONKUP

Land Description : Lot 100, 1 Shelley Beach Road, Kronkup
Proponent : Ayton Baesjou Planning
Owner : Femic Pty Ltd Atf Femic Trust
Business Entity Name : Femic Pty Ltd Atf Femic Trust
Attachments : 1. Site and Floor Plan
2. Draft Management Plan
3. Planning Report
4. Traffic Access Study Report
5. Submissions
Report Prepared by : Planning Officers (T Gunn / C McMurtrie)
Responsible Officer : Executive Director Planning and Development (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy*.
3. The proposal is consistent with the strategic directions identified in the *Albany Local Planning Strategy*.

In Brief:

- Council is asked to consider an application for Planning Scheme Consent for a Private Function Centre located at Lot 100, 1 Shelley Beach Road, Kronkup.
- The application was advertised for public comment and referred to surrounding residents.
- Three letters of objection have been received from nearby residents. The objections primarily relate to the impacts that noise emanating from the premises and the likely increase in traffic will have on local amenity.
- Due to the objections, the application is being referred to Council for determination.
- Staff recommend that Council approve the proposed development, subject to conditions, which are considered to mitigate the concerns raised through the public advertising process.

RECOMMENDATION

**PD088: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council resolves to issue Planning Scheme Consent for a Change of Use – Use not Listed – Private Function Centre at Lot 100, 1 Shelley Beach Road, Kronkup and carry out development in accordance with the approved plans, subject to the following Schedule of Conditions:

General

- 1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany, all development shall occur and be maintained in accordance with the stamped, approved plans.**
- 2. The proposal is to comply with any details and/or amendments marked in red on the stamped, approved plans.**
- 3. The loading and unloading of goods shall occur entirely within the site and be undertaken in a manner so as to cause minimum interference with other vehicular traffic.**
- 4. No goods or materials shall be stored, either temporarily or permanently, in the parking or landscape areas or in access driveways, unless otherwise agreed in writing by the City of Albany.**

Stormwater

- 5. Stormwater from the lot shall be managed to the satisfaction of the City of Albany.**

Access

- 6. The new ‘exit’ crossover shall be located to reduce headlight glare into neighbouring properties, to the satisfaction of the City of Albany.**
- 7. The new and existing crossovers shall be constructed/upgraded to the City of Albany’s specifications, levels and satisfaction.**

Advice:

- A ‘Permit for Vehicle Crossover Construction’ is required from the City of Albany prior to any work being carried out within the road reserve, which shall be in accordance with drawing nos. 97024 1/3 – 97024 3/3 (refer City of Albany Subdivision and Development Guidelines).**
- 8. Any existing crossovers that do not form part of the development hereby approved shall be closed and the kerb, footpath and the verge reinstated to the satisfaction of the City of Albany.**

Car Parking

- 9. All vehicular parking and access areas shall be constructed and maintained as per the approved details and plans, to the satisfaction of the City of Albany.**
- 10. The landowner shall enter into an agreement with the City of Albany to ensure that suitable shared vehicular access arrangements are secured over Lots 100 and 101 Shelley Beach Road.**

Signs

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

Advice:

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

Amenity & Noise

- 12. Prior to commencement of use, the operator shall prepare and submit for approval a Noise Management Plan for the premises, detailing practices and controls to minimise noise emissions, to the satisfaction of the City of Albany.**

13. The premises shall be operated in accordance with the approved Noise Management Plan to the satisfaction of the City of Albany.
14. The level of noise emanating from the premises shall not exceed that prescribed in the Environmental Protection Act 1986, and the Environmental Protection (Noise) Regulations 1997.
15. The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.

Patron Numbers and Hours of Operation

16. A maximum of 120 patrons shall be on site for any evening function/event, unless otherwise agreed in writing by the City of Albany.
17. Functions shall cease no later than 12.00am, unless otherwise agreed in writing with the City of Albany after suitable neighbourhood consultation is undertaken.
18. The applicant will advise nearby residents if more than two evening events/functions are proposed to be held in any calendar month and will undertake suitable measures to mitigate concerns relating to noise and amenity impacts.

PD088: COMMITTEE RECOMMENDATION (AMENDED RESPONSIBLE OFFICER RECOMMENDATION)

MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR GOODE

THAT Council resolves to issue Planning Scheme Consent for a Change of Use – Use not Listed – Private Function Centre at Lot 100, 1 Shelley Beach Road, Kronkup and carry out development in accordance with the approved plans, subject to the following Schedule of Conditions:

General

1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany, all development shall occur and be maintained in accordance with the stamped, approved plans
2. The proposal is to comply with any details and/or amendments marked in red on the stamped, approved plans.
3. The loading and unloading of goods shall occur entirely within the site and be undertaken in a manner so as to cause minimum interference with other vehicular traffic.
4. No goods or materials shall be stored, either temporarily or permanently, in the parking or landscape areas or in access driveways, unless otherwise agreed in writing by the City of Albany.

Stormwater

5. Stormwater from the lot shall be managed to the satisfaction of the City of Albany.

Access

6. The new 'exit' crossover shall be located to reduce headlight glare into neighbouring properties, to the satisfaction of the City of Albany.
7. The new and existing crossovers shall be constructed/upgraded to the City of Albany's specifications, levels and satisfaction.

Advice:

- A 'Permit for Vehicle Crossover Construction' is required from the City of Albany prior to any work being carried out within the road reserve, which shall be in accordance with drawing nos. 97024 1/3 – 97024 3/3 (refer City of Albany Subdivision and Development

Guidelines).

8. Any existing crossovers that do not form part of the development hereby approved shall be closed and the kerb, footpath and the verge reinstated to the satisfaction of the City of Albany.

Car Parking

9. All vehicular parking and access areas shall be constructed and maintained as per the approved details and plans, to the satisfaction of the City of Albany.
10. The landowner shall enter into an agreement with the City of Albany to ensure that suitable shared vehicular access arrangements are secured over Lots 100 and 101 Shelley Beach Road.

Signs

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

Advice:

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

Amenity & Noise

12. Prior to commencement of use, the operator shall prepare and submit for approval a Noise Management Plan for the premises, detailing practices and controls to minimise noise emissions, to the satisfaction of the City of Albany.
13. The premises shall be operated in accordance with the approved Noise Management Plan to the satisfaction of the City of Albany.
14. The level of noise emanating from the premises shall not exceed that prescribed in the Environmental Protection Act 1986, and the Environmental Protection (Noise) Regulations 1997.
15. The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.

Patron Numbers and Hours of Operation

16. A maximum of 120 patrons shall be on site for any evening function/event, unless otherwise agreed in writing by the City of Albany.
17. Functions shall cease no later than 12.00am, unless otherwise agreed in writing with the City of Albany after suitable neighbourhood consultation is undertaken.
18. The applicant will advise nearby residents if more than two evening events/functions are proposed to be held in any calendar month and will undertake suitable measures to mitigate concerns relating to noise and amenity impacts.

CARRIED 6-0

Officer's Reason (Executive Director Planning and Development):

The applicant has advised that the previous condition limiting the centre to 2 functions per calendar month are likely to adversely impact on the viability of the centre.

The amended recommendation provides more flexibility for the applicant, whilst offering a level of protection to local amenity.

PD088: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to issue Planning Scheme Consent for a Change of Use – Use not Listed – Private Function Centre at Lot 100, 1 Shelley Beach Road, Kronkup and carry out development in accordance with the approved plans, subject to the following Schedule of Conditions:

General

1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany, all development shall occur and be maintained in accordance with the stamped, approved plans.
2. The proposal is to comply with any details and/or amendments marked in red on the stamped, approved plans.
3. The loading and unloading of goods shall occur entirely within the site and be undertaken in a manner so as to cause minimum interference with other vehicular traffic.
4. No goods or materials shall be stored, either temporarily or permanently, in the parking or landscape areas or in access driveways, unless otherwise agreed in writing by the City of Albany.

Stormwater

5. Stormwater from the lot shall be managed to the satisfaction of the City of Albany.

Access

6. The new 'exit' crossover shall be located to reduce headlight glare into neighbouring properties, to the satisfaction of the City of Albany.
7. The new and existing crossovers shall be constructed/upgraded to the City of Albany's specifications, levels and satisfaction.

Advice:

- A 'Permit for Vehicle Crossover Construction' is required from the City of Albany prior to any work being carried out within the road reserve, which shall be in accordance with drawing nos. 97024 1/3 – 97024 3/3 (refer City of Albany Subdivision and Development Guidelines).
8. Any existing crossovers that do not form part of the development hereby approved shall be closed and the kerb, footpath and the verge reinstated to the satisfaction of the City of Albany.

Car Parking

9. All vehicular parking and access areas shall be constructed and maintained as per the approved details and plans, to the satisfaction of the City of Albany.
10. The landowner shall enter into an agreement with the City of Albany to ensure that suitable shared vehicular access arrangements are secured over Lots 100 and 101 Shelley Beach Road.

Signs

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

Advice:

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

Amenity & Noise

12. Prior to commencement of use, the operator shall prepare and submit for approval a Noise Management Plan for the premises, detailing practices and controls to minimise noise emissions, to the satisfaction of the City of Albany.
13. The premises shall be operated in accordance with the approved Noise Management Plan to the satisfaction of the City of Albany.
14. The level of noise emanating from the premises shall not exceed that prescribed in the Environmental Protection Act 1986, and the Environmental Protection (Noise) Regulations 1997.
15. The development hereby approved shall not prejudicially affect the amenity of the neighbourhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.

Patron Numbers and Hours of Operation

16. A maximum of 120 patrons shall be on site for any evening function/event, unless otherwise agreed in writing by the City of Albany.
17. No more than two evening events/functions shall be held in any calendar month, and these shall cease no later than 12.00am, unless otherwise agreed in writing with the City of Albany.

BACKGROUND

19. The application seeks to change the use of the former Woodbury Boston School hall at Lot 100, 1 Shelley Beach Road, Kronkup to a private function centre. The hall has been previously sold off by the school and the land subdivided so that it stands on its own lot.
20. In 2013 and 2014 the hall facilities were upgraded so that it could be used as a private function centre. However, the owners were not aware that this would constitute a change of use in the premises and formal Planning Scheme Consent has not yet been granted by the City.
21. The subject lot is located at the south-east corner of the intersection of Shelley Beach Road and Coombes Road. The lot has an area of 1.43ha and is zoned 'General Agriculture' under *Local Planning Scheme No. 1*.
22. With the exception of the Woodbury Boston School, which stands to the south on a 'General Agriculture' zoned lot, the surrounding land is zoned 'Rural Residential' and supports rural living on lots of approximately 2ha in area. A number of large 'Priority Agriculture' zoned lots lie approximately 150m to the south-west of the subject lot and a 'Conservation' zoned lot lies approximately 550m to the south-east.
23. The application was advertised for public comment for a period of 21 days. Nearby landowners were directly notified by letter, a site notice was placed on site and an advertisement was published in a local newspaper. A total of five submissions were received on the application; two of which were in support and three of which raised objections.
24. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant Planning Scheme Consent.

DISCUSSION

25. The hall was used for a variety of functions and community activities when it was owned by the school. The proponent is now seeking to use the hall for a variety of functions, which will be held both during the day and in evenings, and will include weddings.

26. The subject lot slopes downward from west to east, with scattered trees and shrubs across the western extent of the block, which serve to screen the hall from Shelley Beach Road.
27. The proponent has provided a draft management plan, outlining the intended hours of operation, the estimated number of patrons that the premises can accommodate and the estimated number of vehicle movements that their attendance will generate (see Attachment 2).
28. Access to the property is currently via a crossover on the corner truncation of the lot at the intersection of Shelley Beach Road and Coombes Road. City engineers have deemed this to be an unsafe location for the crossover, due to poor sightlines and potential for traffic conflict. Following advice from City staff, the proponent has provided a Traffic Assessment Study Report (see Attachment 4), which acknowledges the safety concerns around the current access arrangements.
29. The Traffic Study Report recommends that a one-way system of access and egress should be implemented. It is proposed to utilise an existing crossover from Shelley Beach Road to a school service driveway for access, and to create a new crossover for egress at a point approximately 50m from the intersection of Shelley Beach Road and Coombes Road. The existing crossover at the intersection will be closed. Part of the existing access driveway extends over the adjoining school site (Lot 101 Shelley Beach Road) and formal legal agreements will have to be secured over the relevant Certificates of Title in order for this arrangement to remain.
30. The submitted site plan indicates the provision of 26 on-site car parking bays, a disabled access parking bay, a bus parking bay and an informal overflow parking area, which can be used if required. This is compliant with *Table 5 – Car and Bicycle Parking Requirements of Local Planning Scheme No. 1*.
31. As outlined above, a total of five submissions were received from members of the public during the advertising period; two letters in support of the proposal and three raising objections.
32. The objections relate primarily to the impacts that noise emanating from the premises and the likely increase in traffic will have on local amenity.
33. While the potential does exist for an increase in noise and disturbance, Staff consider that the issues can be mitigated by responsible management of the premises. The draft management plan that has been submitted with the application details various aspects of the operation of the premises, responsibilities of the hirer, fire prevention measures and the process for dealing with complaints.
34. The venue manager also resides in the area and neighbours will be given the manager's contact details, so that they may report any concerns or complaints about an ongoing function. The proponent has also advised that the venue manager will be available during all functions.
35. Staff recommended that planning conditions relating to noise management are applied to any grant of Planning Scheme Consent, including the submission of finalised noise and management plans to the City for approval. The operation of the venue would also be required to comply with the *Environmental Protection (Noise) Regulations 1997*.
36. To further mitigate any potential impacts from noise and disturbance, Staff have also recommend the application of planning conditions to limit the number of evening functions to two per month with a maximum of 120 patrons and to restrict the hours of operation to no later than 12.00am.

37. It is acknowledged that the proposal will generate additional traffic movements in the area. However, Coombes Road and Shelley Beach Roads already carry a significant amount of local, school and tourist traffic, in addition to visitors to West Cape Howe National Park. Furthermore, traffic associated with the proposal is likely to arrive and depart within short periods of time, meaning that there would not be a significant increase in traffic over the course of the day. As outlined above, the proposed alterations to the vehicular access and egress arrangements will address the safety concerns around the existing crossover to the subject lot.
38. It is recommended that Council approve the proposed development, subject to the conditions provided.

GOVERNMENT & PUBLIC CONSULTATION

39. The proposal was advertised for public comment for a period of 21 days, in accordance with clause 9.4 – *Advertising of Applications of Local Planning Scheme No. 1*. A sign was placed on site, an advert was published in a local newspaper and surrounding landowners were directly notified in writing.
40. A total of five submissions were received during the advertising period. Two submissions were in support of the proposal, while three objected to it. The submissions are summarised as follows:

Summary of submissions	Officer comment
The Woodbury Boston School fully supports the application. In the past, the building was used for end-of-year family dances and other sporadic events, and we look forward to being able to use the centre for these community-building events in the future.	The Woodbury Boston School's support for the proposal is noted.
The facility has hosted innumerable events and functions. On no occasion have lights and sound from the hall ever been a problem.	The comment is noted.
The recently completed renovations have transformed the building into an ideal venue, which should be welcomed by the local community.	The comment is noted.
Unfortunately, new landowners within the area have failed to appreciate that the building has had a history of use as a public facility.	The comment is noted.
We feel the potential difficulties from the function centre have been more than adequately addressed in the management plan.	The comment is noted.
Our purpose in buying this house and moving to the area was to live in peace and quiet; the proposal will impact on the amenity of the area.	The proposed use can be considered in the 'General Agriculture' zone and function and community halls are commonly located within rural areas. The closest dwelling is over 130m from the building and screening vegetation is already in place along the north, south and west boundaries.
The increase in noise from loud music, people yelling and buses reversing, etc. are of concern.	While the potential does exist for an increase in noise and disturbance, Staff consider that the issues can be mitigated by responsible management of the premises. The draft management plan that has been submitted with the application details various aspects of the operation of the premises, responsibilities of the hirer, fire prevention measures and the process for dealing with complaints. The venue manager also resides in the area and neighbours will be given the manager's contact details, so that they may report any concerns or complaints about an

	<p>ongoing function. The proponent has also advised that the venue manager will be available during all functions. Staff recommend that planning conditions relating to noise management are applied, including the submission of finalised noise and management plans to the City for approval. The operation of the venue would also be required to comply with the <i>Environmental Protection (Noise) Regulations 1997</i>.</p> <p>This approach will retain the option for hours of operation and patron numbers to be increased, at the City's discretion.</p> <p>The proposed one-way vehicular access and egress arrangements should minimise the nuisance caused by reversing alarms on buses and service vehicles.</p>
<p>The proposal will generate additional traffic on the road network, which will increase road and vehicle noise.</p>	<p>It is acknowledged that the proposal will generate additional traffic movements in the area. However, Coombes Road and Shelley Beach Roads already carry a significant amount of local, school and tourist traffic, in addition to visitors to West Cape Howe National Park. Traffic associated with the proposal is likely to arrive and depart within short periods of time, meaning that there would not be a significant increase in traffic over the course of the day.</p>
<p>With the traffic exiting from the new driveway, headlights will shine directly across onto neighbouring properties and into dwellings.</p>	<p>To reduce the impact on the neighbouring properties to the west, Staff recommend that the crossover used by traffic exiting the lot is suitably positioned and angled to direct headlight glare away from adjacent dwellings.</p>
<p>We are concerned with the management plan, in particular, music being allowed until 1.00am in the morning from Friday and Saturday evening functions. In the metropolitan area these events are restricted to 11.00pm and 12.00pm.</p>	<p>In an effort to minimise these potential impacts, Staff recommend the application of a planning condition to limit the number of evening functions to two per month. Staff also recommend the application of a planning condition to limit the maximum number of patrons at any evening function to 120 and restrict the hours of operation to no later than 12.00am.</p>
<p>How will the behaviour of patrons be regulated, especially when they are under the affects of alcohol? It will be impossible to guarantee that patrons remain on the property and adhere to the 'rules'.</p>	<p>The operators of the premises will be responsible for managing patrons in accordance with the management plan and the provisions of the <i>Liquor Control Act 1988</i>.</p>
<p>There is already a function centre in the area (Bornholm-Kronkup Community Centre) which is a much more suitable site. Why should the City approve another?</p>	<p>The City is obliged to entertain any application for planning approval, unless the land use or development is expressly prohibited in the zone.</p>
<p>The proposal will impact on the value of many surrounding properties.</p>	<p>Property values are a not a valid planning consideration and cannot be considered by Staff in the assessment of this application.</p>
<p>The increased possibility of fire, including from patrons smoking within the grounds, and traffic incidents and the delayed responses from fire and emergency services from Albany is a problem.</p>	<p>The draft management plan that has been submitted in support of the application outlines a number of fire mitigation measures that will be implemented. The proposed alterations to the vehicular access arrangements to the site will reduce the risk of traffic incidents by removing a potentially unsafe crossover and replacing it with two crossovers that have better sightlines.</p>
<p>Would like to see extra conditions added, and closing times adjusted significantly for this proposal to be better suited to the surrounding area.</p>	<p>As outlined above, Staff recommend the application of a planning condition to limit the maximum number of patrons at any evening function to 120 and restrict the hours of operation to no later than 12.00am.</p>
<p>The traffic assessment report fails in a number of regards: how service vehicles will exit the school; lines of sight; impacts on vegetation and power poles; speed of vehicles; overflow parking; and affects on other users of Shelley Beach Road.</p>	<p>Service vehicles will still be able to exit the school via the driveway across Lot 100 Shelley Beach Road. Formal legal agreements will have to be secured over the relevant Certificates of Title to ensure that this arrangement remains in place. Sightlines onto Shelley Beach Road from the proposed exit point are generally good and the exact location of this</p>

	<p>crossover will be agreed, prior to the issue of a crossover permit by the City.</p> <p>The proposed location for the exit point is cleared of trees and significant vegetation and there are no power poles present.</p> <p>The proposed exit point would be located approximately 50m from the intersection of Shelley Beach Road and Coombes Road. It is likely, due to its proximity to this intersection, that traffic speeds will be relatively low on this section of Shelley Beach Road.</p> <p>It is acknowledged that the proposal will generate additional traffic movements in the area. However, as outlined above, Coombes Road and Shelley Beach Roads already carry a significant amount of local, school and tourist traffic, in addition to visitors to West Cape Howe National Park. Furthermore, the traffic associated with the proposal is likely to arrive and depart within short periods of time, meaning that there would not be a significant increase in traffic over the course of the day.</p>
<p>The proposal will result in anti-social behaviour, and increase damage to nearby properties including the school.</p>	<p>As outlined above, the operators of the premises will be responsible for managing patrons in accordance with the management plan and the provisions of the <i>Liquor Control Act 1988</i>. However, anti-social behaviour, such as disorderly conduct or criminal damage would fall under the jurisdiction of Western Australia Police.</p>
<p>There is potential for an increase in traffic accidents as a result of drink-driving and the number of kangaroos that congregate in the area.</p>	<p>As outlined above, the operators of the premises will be responsible for managing patrons in accordance with the management plan and the provisions of the <i>Liquor Control Act 1988</i>. Responsible service of alcohol should minimise incidences of drink-driving. Should someone commit a drink-driving offence, this would fall within the jurisdiction of Western Australia Police.</p> <p>The risk of kangaroo strikes should be minimal in the immediate vicinity of the proposed function centre, as traffic associated with the development is likely to be travelling at low speed.</p>

STATUTORY IMPLICATIONS

41. Clause 4.4.2 of *Local Planning Scheme No. 1* states that:

“If a person proposes to carry out on land any use that is not specifically mentioned in the Zoning Table and cannot reasonably be determined as falling within the type, class or genus of activity of any other use category, the Local Government may:

- (a) Determine that the use is consistent with the objectives of the particular zone and is therefore permitted;*
- (b) Determine that the use may be consistent with the objectives of the particular zone and thereafter follow the advertising procedures of clause 9.4 in considering an application for planning approval; or*
- (c) Determine that the use is not consistent with the objectives of the particular zone and is therefore not permitted”.*

42. This application has been determined in accordance with sub-clause (b) above.

43. The subject site is zoned ‘General Agriculture’ under *Local Planning Scheme No. 1*.

44. 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.

45. Voting requirement **Simple Majority.**

POLICY IMPLICATIONS

46. Nil.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation The proponent may lodge an application for review to the State Administrative Tribunal if the Council's decision was to refuse the proposal.</p>	Likely	Moderate	Medium	<p>The decision is based on sound planning grounds.</p> <p>If a decision is made to refuse the application, Council must provide sound reasons for the decision. These reasons would be necessary to defend the decision at a State Administrative Tribunal hearing.</p>
<p>Community, Organisational Operations, Financial and Reputation Approving the proposed use could give rise to unacceptable impacts on the amenity of the area.</p>	Possible	Moderate	Medium	<p>Potential impacts on local amenity can be mitigated by the application of appropriate planning conditions.</p>

FINANCIAL IMPLICATIONS

- 48. All costs associated with the development will be borne by the proponent.
- 49. However, the proponents have the right to seek a review of that decision or conditions through the State Administrative Tribunal (SAT), the City could be liable for costs associated with defending the decision at a State Administrative Tribunal hearing.

LEGAL IMPLICATIONS

50. Council is at liberty to use its discretion to approve or refuse the proposal. An applicant aggrieved by a decision or condition may apply for a review to the SAT, in accordance with Section 252 of the *Planning and Development Act 2005*.

51. 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

52. Nil.

ALTERNATE OPTIONS

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

- To determine that the proposed use is unacceptable and to resolve to refuse the application; or
- To alter, amend, remove or add conditions to the approval to address potential impacts from the development.

SUMMARY CONCLUSION

54. The matters raised in the public submissions received during the advertising period have been broadly addressed by the proponent and can be mitigated through the application of appropriate planning conditions.

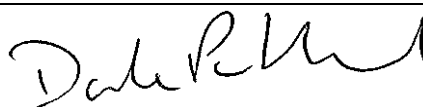
55. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

Consulted References	:	1. <i>Local Planning Scheme No. 1</i> 2. <i>Albany Local Planning Strategy 2010</i>
File Number (Name of Ward)	:	A182155 (West Ward)
Previous Reference	:	Nil

PD089: RECONSIDERATION OF SINGLE HOUSE AT LOT 75 AND SINGLE HOUSE AT LOT 76 RANGE ROAD, YAKAMIA, 6330

Land Description : Lot 75 and 76 Range Road, Yakamia 6330
Proponent : MGA Town Planners
Owners : Bohemia Estates Pty Ltd
Business Entity Name : Bohemia Estates Pty Ltd
Attachments : 1. Copy of original item PD080 from May 2015 OCM
2. Revised Site plans
Supplementary Information & Councillor Workstation: : Nil
Report Prepared by : Senior Planning Officer (Alex Bott)
Responsible Officer : Executive Director Planning and Development Services (D Putland)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. When exercising its discretion in relation to planning matters, the pertinent strategic document is the *Albany Local Planning Strategy (ALPS)*.
3. The proposals are consistent with the strategic direction set in ALPS.

In Brief:

- The State Administrative Tribunal has invited the City of Albany to reconsider the decision made at the May 2015 Ordinary Council Meeting for the development of a Single House at lot 75 Range Road and a Single House at Lot 76 Range Road, Yakamia.
- Council conditionally approved the proposals subject to a number of conditions relating to vegetation protection and bushfire control.
- The applicant sought review of a number of conditions at the State Administrative Tribunal. Through this process the applicant has provided the City of Albany with revised plans and clarified condition wording.
- Staff recommend that Council approve the development of the two Single Houses, subject to revised conditions.
- *Post Committee meeting, Planning staff contacted the Applicant and Mover of Amendment to have the condition applied as a condition under the Fire Management Plan which they accepted.*

RECOMMENDATION

PD089: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council resolves to issue Planning Scheme Consent for the purpose of a Single House at Lot 75 Range Road, Yakamia and a Single House at Lot 76 Range Road, Yakamia and carry out development in accordance with the approved plans subject to the following Schedule of Conditions:

General

1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany, all development shall occur and be maintained in accordance with the stamped, approved plans dated (**insert date**).
2. No vegetation outside of the approved building envelope area shall be removed or disturbed unless otherwise agreed in writing with the City of Albany.

Stormwater

3. Stormwater being managed to the satisfaction of the City of Albany.

Access

4. A new crossover to Target Road shall be constructed to the City of Albany's specifications, levels and satisfaction.

Advice:

- A 'Permit for Vehicle Crossover Construction' is required from the City of Albany prior to any work being carried out within the road reserve, which shall be in accordance with drawing nos. 97024 1/3 – 97024 3/3 (refer City of Albany Subdivision and Development Guidelines).

5. Range Road being constructed to a battleaxe lot access leg standard from the access point to Target Road to the satisfaction of the City of Albany.

Advice:

- All works to be completed in accordance with City of Albany Subdivision and Development Guidelines (specifically section 11.6).

Building Protection and Hazard Separation Zone

6. The Building Protection and Hazard Separation Zones being implemented and maintained to a standard for BAL-29, to the satisfaction of the City of Albany.
7. The dwellings being constructed to the appropriate Australian Standard (3959) Construction of Buildings in Bushfire-prone Areas for BAL-29.

Location of Single Dwellings

8. The location of the single dwellings and Building Protection Zones being modified (relocated to the west) as per the attached plan, to the satisfaction of the City of Albany.

Fire Management Plan

9. The Fire Management Plan being modified to conform with conditions of this planning scheme consent, to the satisfaction of the City.

Advice:

- **The revised Fire Management is to include provision for a suitable turnaround area for fire and emergency vehicles within the driveway and vehicle circulation area of the dwelling to the satisfaction of the City of Albany.**

Notification

10. A notification, pursuant to section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the Lots 75 and 76. The notification is to state as follows:

“No development is to take place outside the defined building envelope(s), unless otherwise approved by the local government. The building envelope refers to the area within which all development on each lot (including the dwelling, sheds, water storage, low fuel area and effluent disposal areas) must be confined.”

General advice regarding the EPBC Act

- The owner/developer is advised to liaise with the Commonwealth Department of Environment regarding the requirements of the *Environment Protection and Biodiversity Conservation Act 1999* prior to any clearing and/or development taking place.

PD089: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be adopted with an additional condition under Access:

- Provision shall be made for a suitable turnaround area for fire and emergency vehicles within the driveway, and vehicle circulation area of the dwelling, to the satisfaction of the City of Albany

CARRIED 6-0

Councillor Gregson proposed to move the Responsible Officers Recommendation with a minor amendment.

Reason: Safety for Emergency Services Staff

PD089: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council resolves to issue Planning Scheme Consent for the purpose of a Single House at Lot 75 Range Road, Yakamia and a Single House at Lot 76 Range Road, Yakamia and carry out development in accordance with the approved plans subject to the following Schedule of Conditions:

General

1. Prior to occupancy of use, unless varied by a condition of approval or a minor amendment to the satisfaction of the City of Albany, all development shall occur and be maintained in accordance with the stamped, approved plans dated (**insert date**).
2. No vegetation outside of the approved building envelope area shall be removed or disturbed unless otherwise agreed in writing with the City of Albany.

Stormwater

3. Stormwater being managed to the satisfaction of the City of Albany.

Access

4. A new crossover to Target Road shall be constructed to the City of Albany's specifications, levels and satisfaction.

Advice:

- A 'Permit for Vehicle Crossover Construction' is required from the City of Albany prior to any work being carried out within the road reserve, which shall be in accordance with drawing nos. 97024 1/3 – 97024 3/3 (refer City of Albany Subdivision and Development Guidelines).

5. Range Road being constructed to a battleaxe lot access leg standard from the access point to Target Road to the satisfaction of the City of Albany.

Advice:

- All works to be completed in accordance with City of Albany Subdivision and Development Guidelines (specifically section 11.6).

Building Protection and Hazard Separation Zone

6. The Building Protection and Hazard Separation Zones being implemented and maintained to a standard for BAL-29, to the satisfaction of the City of Albany.
7. The dwellings being constructed to the appropriate Australian Standard (3959) Construction of Buildings in Bushfire-prone Areas for BAL-29.

Location of Single Dwellings

8. The location of the single dwellings and Building Protection Zones being modified (relocated to the west) as per the attached plan, to the satisfaction of the City of Albany.

Fire Management Plan

9. The Fire Management Plan being modified to conform with conditions of this planning scheme consent, to the satisfaction of the City.

Notification

10. A notification, pursuant to section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the Lots 75 and 76. The notification is to state as follows:

“No development is to take place outside the defined building envelope(s), unless otherwise approved by the local government. The building envelope refers to the area within which all development on each lot (including the dwelling, sheds, water storage, low fuel area and effluent disposal areas) must be confined.”

General advice regarding the EPBC Act

- The owner/developer is advised to liaise with the Commonwealth Department of Environment regarding the requirements of the *Environment Protection and Biodiversity Conservation Act 1999* prior to any clearing and/or development taking place.

BACKGROUND DISCUSSION

4. The application was conditionally approved by Council at the May 2015 Ordinary Council meeting.
5. The applicant referred the review of a number of conditions to the State Administrative Tribunal for review.
6. The applicant sought review to refine a number of conditions and review the required Bushfire Attack Level (BAL) of 40 which was applied.
7. As a result of mediation the following information has been put forward;
 - A reduction from BAL 40 to BAL 29;
 - Introduction of a building envelope in line with the clearing required to facilitate a BAL 29; and
 - Introduction of a section 70A on title advising of the building envelope in lieu of a restrictive covenant.
8. The proposed items for reconsideration are reflected in conditions of the responsible officer recommendation above.

DISCUSSION

9. The methodology set out in *Planning for Bushfire Protection Guidelines* seeks to strike a balance between clearing of vegetation and fire resistant construction techniques, which may be varied dependent on the circumstances.
10. The original approval required construction to a BAL 40 level. The Planning for Bushfire Protection Guidelines note that locating residential development where BAL-40 is identified is not recommended due to the level of fire risk, though it may be permitted in exceptional circumstances
11. The proposed reduction to BAL 29 does result in an increased level of clearing. However, BAL 29 is generally considered be the highest development standard which can be reasonably applied to residential development. The proposed BAL 29 level will still achieve a significant reduction of clearing in comparison to the originally proposed BAL 12.5.
12. If approved via reconsideration, a condition will remain requiring the fire management plan to be amended to reflect the revised BAL 29.
13. Officers consider that the revised BAL 29 level provides a balance between vegetation protection and bushfire protection.
14. The current approval contains a restrictive covenant which prohibits clearing outside of the bushfire protection area.
15. The applicant contended the validity of such a condition and the associated wording.
16. The option of replacing the restrictive covenant with a notification of title was put forward. A section 70A notification on title would operate in conjunction with a building envelope. The proposed wording for a notification is as follows;

“No development is to take place outside the defined building envelope(s), unless otherwise approved by the local government. The building envelope refers to the area within which all development on each lot (including the dwelling, sheds, water storage, low fuel area and effluent disposal areas) must be confined.”

17. In terms of vegetation protection, a section 70A notification on title is not as enforceable and prescriptive as a restrictive covenant. Essentially, a section 70A would notify a landowner that they cannot clear outside of the building envelope area. A restrictive covenant provides an ongoing obligation for vegetation to be protected and binds the owner as such.
18. Acknowledging that a notification provides a reduced vegetation protection control, it is recommended that an additional ongoing condition of consent be applied stating that no native vegetation is to be cleared outside of the approved building envelope area. An ongoing condition of this nature requires ongoing compliance and provides the City with the ability to undertake compliance action due to breach of condition in the event that vegetation is cleared outside of the building envelope area.

GOVERNMENT & PUBLIC CONSULTATION

19. The City has referred the original development applications to the Office of the Environmental Protection Authority (OEPA). The OEPA elected not to formally review the applications but noted a preference for development to be consistent with the draft Yakamia/Lange Structure Plan. While the OEPA advice notes that vegetation on these lots should be preserved due to their environmental significance. (More explanation is included under “Environmental Considerations”)

STATUTORY IMPLICATIONS

20. The subject lots are zoned ‘Future Urban’ under LPS1.
21. Clause 4.2.3 *Future Urban Zone* in LPS1 sets out the objectives for the ‘Future Urban’ zone.
22. **Voting requirement** - Simple Majority

POLICY IMPLICATIONS

23. Fire protection measures should be consistent with the methodology contained in the Western Australian Planning Commission’s *Planning for Bushfire Protection Guidelines*.
24. The methodology set out in *Planning for Bushfire Protection Guidelines* seeks to strike a balance between clearing of vegetation and fire resistant construction techniques, which may be varied dependent on the circumstances.
25. The Guidelines also identify various vegetation types and ‘Bushfire Attack Levels’, or BALs, which relate to a level of construction under AS 3959. Dependent on the vegetation type and the degree of slope between it and the proposed development, the HSZ may be reduced from 80m (100m when combined with the BPZ), with a corresponding increase in the BAL and the level of construction required.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Organisational Operations and Reputation If the applications are approved, the applicant may appeal to the State Administrative Tribunal (SAT)</p>	Likely	Moderate	High	Any decision based on proper planning grounds can be defended in SAT. If the conditions are upheld, the impact on the environment can be minimised.

FINANCIAL IMPLICATIONS

27. There may be financial implications if review of the decision proceeds through to a hearing at the SAT.

LEGAL IMPLICATIONS

28. The applicant has the ability to continue mediation or proceed to a hearing at the State Administrative Tribunal.

ENVIRONMENTAL CONSIDERATIONS

29. The subject lots are entirely covered in native vegetation that has been identified in the *Albany Regional Vegetation Survey* (ARVS) as being in very good to excellent condition. The vegetation also includes priority flora species and provides a habitat for threatened and endangered fauna species. The applications were therefore referred to the Office of the Environmental Protection Authority (OEPA) for their comment.
30. The OEPA provided the following response:

“Lots 75 and 76 Range Road hold vegetation in 'Very Good' to 'Excellent' condition which supports significant ecological communities, priority flora and habitat for threatened fauna protected under State and Commonwealth legislation. The vegetation within these Lots is part of a consolidated area of native vegetation which contains multiple vegetation units (catena from upland to wetland) identified as having high conservation value in the Albany Regional Vegetation Survey. It is noted that clearing for building envelopes and bushfire protection will impact 3.1205 hectares of native vegetation on Lot 75 and 7.0608 hectares on Lot 76...the OEPA's preference is that development be consistent with the draft Yakamia/Lange Structure Plan. Referral to the Commonwealth is likely to be required as the developments may have a significant impact on Matters of National Environmental Significance.”

ALTERNATE OPTIONS

31. Council has the following alternate options in relation to this item, which are:
- To refuse the reconsideration of both applications, on the grounds that they will have an adverse impact on the environment and visual amenity;
 - To approve both applications while maintaining the restrictive covenant condition of the original approval.
32. If the reconsideration is refused, the original approval would stand.

SUMMARY CONCLUSION

33. Council has been invited to reconsider the original consent approved at the May 2015 Ordinary Council Meeting.
34. The applicant has requested review of a number of conditions pertaining to Bushfire controls and associated detail. The amended application includes the following;
- Reduction from BAL 40 to BAL 29;
 - Introduction of a building envelope in line with the clearing required to facilitate a BAL 29;and
 - Introduction of a section 70A on title advising of the building envelope in lieu of a restrictive covenant.

35. Officers recommend Council approve the amended application on the grounds that they provide a pragmatic balance between vegetation protection and bushfire protection.

Consulted References	: <ol style="list-style-type: none"> 1. Planning and Development Act 2015 2. Local Planning Scheme No. 1 3. Albany Local Planning Strategy 2010 4. Environmental Protection Act 1986 5. Draft Yakamia/Lange Structure Plan 6. Planning for Bushfire Protection Guidelines
File Number (Name of Ward)	: A86521 and A86503 (Yakamia Ward)
Previous Reference	: PD080: Consideration Of Single House At Lot 75 And Single House At Lot 76 Range Road, Yakamia PD060: Endorse advertising for the draft Yakamia/Lange Structure Plan (25/11/2014).

PD090: PLANNING AND BUILDING REPORTS JULY 2015

Proponent : City of Albany
Attachment : Planning and Building Reports July 2015
Report Prepared By : Administration Officer-Planning (K Smith)
Information Officer-Development Services (R Sutton)
Responsible Officer(s): : Executive Director Planning & Development (D Putland)

Responsible Officer's Signature:



RECOMMENDATION

PD090: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council NOTE the Planning and Building Reports for July 2015.

CSF185: FINANCIAL ACTIVITY STATEMENT – JUNE 2015

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

Responsible Officer's Signature:



RECOMMENDATION

CSF185: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RECEIVE the Financial Activity Statement for the period ending 30 June 2015.

CSF185: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR BOWLES

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 10-0

CSF185: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Financial Activity Statement for the period ending 30 June 2015.

BACKGROUND

1. The Statement of Financial Activity for the period ending 30 June 2015 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 June 2015 has been incurred in accordance with the 2014/15 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 2014/15 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.

File Number (Name of Ward)	FM.FIR.2 - All Wards
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CSF186: LIST OF ACCOUNTS FOR PAYMENT – JULY 2015

Proponent : City of Albany
Attachments : List of Accounts for Payment
Report Prepared by : Financial Accountant (S Beech)
Responsible Officer : Executive Director Corporate Services (G Adams)

Responsible Officer’s Signature:



RECOMMENDATION

CSF186: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

That Council received the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 July 2015 totalling \$7,063,357.66.

CSF186: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HOLLINGWORTH
 SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CSF186: RESPONSIBLE OFFICER RECOMMENDATION

That Council received the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 July 2015 totalling \$7,063,357.66.

BACKGROUND

- 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

- The table below summarises the payments drawn from the municipal fund for the period ending 15 July 2015. Please refer to the Attachment to this report.

Municipal Fund

Trust	\$7,100.00
Credit Cards	\$23,525.73
Payroll	\$1,137,617.41
Cheques	\$86,481.94
Electronic Funds Transfer	\$5,808,632.58

TOTAL

\$7,063,357.66

3. As at 15 July 2015, the total outstanding creditors, stands at \$1,189,724.98 and made up as follows:-

Current	\$431,850.59
30 Days	\$758,772.82
60 Days	\$182.00
90 Days	-\$1,080.43
TOTAL	\$1,189,724.98

Cancelled cheques: 30629 incorrect amount, 30628 incorrect amount, 30692 paid by eft, 30683 incorrect amount.

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

7. Expenditure for the period to 15 July 2015 has been incurred in accordance with the 2014/2015 budget parameters.

FINANCIAL IMPLICATIONS

8. Expenditure for the period to 15 July 2015 has been incurred in accordance with the 2014/2015 budget parameters.

SUMMARY CONCLUSION

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

File Number (Name of Ward)	:	FM.FIR.2 - All Wards
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CSF187: DELEGATED AUTHORITY REPORTS

Proponent : City of Albany
Attachments : Executed Document and Common Seal Report
Report Prepared by : Personal Assistant to the DCEO (H Bell)
Responsible Officer : Chief Executive Officer (G Foster)

Responsible Officer's Signature:



RECOMMENDATION

CSF187: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RECEIVE the Delegated Authority Reports up until 15 July 2015.

CSF187: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR DOWLING
SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CSF187: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Delegated Authority Reports up until 15 July 2015.

CSF188: NEW LEASE AND LICENCE – WESTERBERG BROS – CHEYNE ROAD, CHEYNE BEACH

Land Description : Portion of Crown Reserve 878 Lot 7442 on Deposited Plan 214689, the subject of Head Certificate of Title Volume LR3082 Folio 959, Cheyne Beach

Proponent : Beach Fishing Pty Ltd (ACN 008 883 109) trading as Westerberg Bros
Directors being Tony David Westerberg and Jeffrey Neil Westerberg as Guarantors

Owner : Crown

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

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 2014-2018:
 - a. **Key Theme:** Civic Leadership
 - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
 - c. **Strategic Initiative:** 5.1.2 Develop informed and transparent decision making processes that meet our legal obligations.

Maps and Diagrams:



IN BRIEF

- Council is requested to consider the renewal of lease and non exclusive licence to Beach Fishing Pty Ltd trading as Westerberg Bros over lots 2 and 3 Cheyne Road, Cheyne Beach for a 10 year term to continue the existing use of accommodation associated with commercial fishing activities.
- Council is requested to consider relaxing the Property Management (Leases and Licences) Policy provision for the renewal of commercial fishing accommodation leases and licences for a maximum 5 year period and grant a 10 year term.
- Lots 2 and 3 are located on foreshore land where significant erosion is evident.
- The lessee acknowledges and agrees that structures including buildings may be damaged by erosion on the foreshore boundaries and the useable area of the sites may diminish during the 10 year term.
- All structures and buildings are the liability of the lessee and the Lease and Licence is for the land only.
- Indemnification clauses will be included such that the City is not liable for any damage to existing structures and buildings as a result of continued erosion.
- The recommendation proposes that Council approve the new lease and licence.

RECOMMENDATION

CSF188: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council APPROVE a new lease over Lot 3 Cheyne Road and a non exclusive licence over lot 2 Cheyne Road, Cheyne Beach on portion of Reserve 878 to Beach Fishing Pty Ltd trading as Westerberg Bros, subject to:

- a) Lease purpose being “Accommodation associated with the Fishing Industry” in accordance with the Management Order for the reserve.**
- b) Licence purpose being for ‘Storage of fishing equipment including nets owned by the Licensee and fish loading operations’.**
- c) Lease is conditional upon the lessee continuing to operate under a commercial fisherman’s licence for the Cheyne Beach area issued by the Department of Fisheries Western Australia.**
- d) Lease area being approximately 7918m² to be confirmed by survey.**
- e) Licence area being approximately 3789m² to be confirmed by survey.**
- f) Lease rent being determined by a current market valuation provided by a licensed Valuer.**
- g) Licence rent being 50% of the minimum rate determined by Council each year.**
- h) Lease and Licence term being 10 years.**
- i) Lease and Licence commencement date being 1 December 2015.**
- j) Lease special condition to document the lessee occupies the sites at their own risk and indemnifies the City against any loss or claims resulting from the lessee’s occupation of the site. No works are to be conducted on or adjacent the site for the purposes of protecting the site or diminishing erosion on the site. The lessee agrees at its cost to make safe or remove any structure or building that has been adversely effected by erosion, in the opinion of the City. Further indemnification clauses will be included such that the City is not liable for any damage to existing structures and buildings as a result of erosion.**

- k) All costs associated with the ongoing operations of the lease and licence property being payable by the lessee.
- l) All costs associated with the preparation, execution and completion of the lease and licence documentation being payable by the lessee.
- m) Pursuant to Section 18 of the *Lands Administration Act 1997*, the Minister for Lands consent is obtained.
- n) Pursuant to Section 3.58 of the *Local Government Act 1995* advertising requirements.
- o) Lease and Licence being consistent with Council Policy – Property Management (Leases and Licences).
- p) Recommend that both parties may commence negotiations up to 24 months prior to lease expiring for renewal of lease.

CSF188: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON

SECONDED: COUNCILLOR DOWLING

THAT Council APPROVE a new lease over Lot 3 Cheyne Road and a non exclusive licence over lot 2 Cheyne Road, Cheyne Beach on portion of Reserve 878 to Beach Fishing Pty Ltd trading as Westerberg Bros, subject to:

- a) Lease purpose being “Accommodation associated with the Fishing Industry” in accordance with the Management Order for the reserve.
- b) Licence purpose being for ‘Storage of fishing equipment including nets owned by the Licensee and fish loading operations’.
- c) Lease is conditional upon the lessee continuing to operate under a commercial fisherman’s licence for the Cheyne Beach area issued by the Department of Fisheries Western Australia.
- d) Lease area being approximately 7918m² to be confirmed by survey.
- e) Licence area being approximately 3789m² to be confirmed by survey.
- f) Lease rent being determined by a current market valuation provided by a licensed Valuer.
- g) Licence rent being 50% of the minimum rate determined by Council each year.
- h) Lease and Licence term being 10 years.
- i) Lease and Licence commencement date being 1 December 2015.
- j) Lease special condition to document the lessee occupies the sites at their own risk and indemnifies the City against any loss or claims resulting from the lessee’s occupation of the site. No works are to be conducted on or adjacent the site for the purposes of protecting the site or diminishing erosion on the site. The lessee agrees at its cost to make safe or remove any structure or building that has been adversely effected by erosion, in the opinion of the City. Further indemnification clauses will be included such that the City is not liable for any damage to existing structures and buildings as a result of erosion.
- k) All costs associated with the ongoing operations of the lease and licence property being payable by the lessee.
- l) All costs associated with the preparation, execution and completion of the lease and licence documentation being payable by the lessee.
- m) Pursuant to Section 18 of the *Lands Administration Act 1997*, the Minister for Lands consent is obtained.

- n) Pursuant to Section 3.58 of the *Local Government Act 1995* advertising requirements.
- o) Lease and Licence being consistent with Council Policy – Property Management (Leases and Licences).
- p) **Recommend that both parties may commence negotiations up to 24 months prior to lease expiring for renewal of lease.**

CARRIED 11-0

CSF188: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council APPROVE a new lease over Lot 3 Cheyne Road and a non exclusive licence over lot 2 Cheyne Road, Cheyne Beach on portion of Reserve 878 to Beach Fishing Pty Ltd trading as Westerberg Bros, subject to:

- a) Lease purpose being “Accommodation associated with the Fishing Industry” in accordance with the Management Order for the reserve.
- b) Licence purpose being for ‘Storage of fishing equipment including nets owned by the Licensee and fish loading operations’.
- c) Lease is conditional upon the lessee continuing to operate under a commercial fisherman’s licence for the Cheyne Beach area issued by the Department of Fisheries Western Australia.
- d) Lease area being approximately 7918m² to be confirmed by survey.
- e) Licence area being approximately 3789m² to be confirmed by survey.
- f) Lease rent being determined by a current market valuation provided by a licensed Valuer.
- g) Licence rent being 50% of the minimum rate determined by Council each year.
- h) Lease and Licence term being 10 years.
- i) Lease and Licence commencement date being 1 December 2015.
- j) Lease special condition to document the lessee occupies the sites at their own risk and indemnifies the City against any loss or claims resulting from the lessee’s occupation of the site. No works are to be conducted on or adjacent the site for the purposes of protecting the site or diminishing erosion on the site. The lessee agrees at its cost to make safe or remove any structure or building that has been adversely effected by erosion, in the opinion of the City. Further indemnification clauses will be included such that the City is not liable for any damage to existing structures and buildings as a result of erosion.
- k) All costs associated with the ongoing operations of the lease and licence property being payable by the lessee.
- l) All costs associated with the preparation, execution and completion of the lease and licence documentation being payable by the lessee.
- m) Pursuant to Section 18 of the Lands Administration Act 1997, the Minister for Lands consent is obtained.
- n) Pursuant to Section 3.58 of the *Local Government Act 1995* advertising requirements.
- o) Lease and Licence being consistent with Council Policy – Property Management (Leases and Licences).

BACKGROUND

2. Crown Reserve 878 is under management order H359478 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of “Recreation, Camping, Holiday Accommodation, Accommodation Associated with the Fishing Industry and Fire Station” for any term not exceeding 21 years subject to the consent of the Minister for Lands.

3. Crown Reserve 878, with an area of approximately 115 hectares, is located at Cheyne Beach. The reserve is surrounded by approximately 3,500 hectares of National Park under the management of the Department of Parks and Wildlife.
4. The reserve currently hosts 29 Holiday Accommodation leases, seven accommodation associated with the Fishing Industry leases and one Fishing licence.
5. In total there are 16 surveyed lots within Reserve 878 along Cheyne Road that are gazetted for the purpose of accommodation associated with the Cheyne Beach fishing industry. The City of Albany fire shed is situated on Lot 15 within this gazetted area. Only Lots 2 and 3 are located on waterfront land.
6. The Cheyne Beach Caravan Park was originally part of Reserve 878 but this has been excised and is now freehold land adjacent the 16 surveyed lots reserved for fishing accommodation land.
7. In December 1995 the former Shire of Albany entered into a lease with the Westerberg Bros which allowed the commercial fishermen to formalise their fishing accommodation needs at Cheyne Beach. Commercial fishermen, including the Westerberg family, have been fishing the Cheyne Beach area in excess of 60 years.
8. The lease for a term of 10 years, commenced 1 December 1995, with a 10 year further term option exercised, is due to expire 30 November 2015. Current lease rental payable to the City, determined every second year by market valuation is \$2,750.00 plus GST per annum.
9. The present non exclusive licence is ongoing and may be terminated at any time after the expiration of the first year of the term by either party giving to the other not less than three months written notice.
10. Current licence rental payable to the City is \$448.00 plus GST per annum. Licence rental is determined by applying 50% of the current minimum rate as set by Council every second year.
11. The current licence area is the designated work site for the Cheyne Beach herring fishermen, with the fishing trucks loaded and equipment stored in the area during the season. It is understood this area has been utilised this way for over seven decades.
12. The leases granted to the commercial fishermen allowed them to construct buildings and infrastructure on the land to support them in their commercial fishing activities. The lessees are responsible for providing adequate electricity supply, adequate potable water supply, an effluent disposal system and parking.
13. The lease area of site 3 has been developed with three dwellings to accommodate the families of the lessee, and additional workers as required during the season; plus three large sheds used to store fishing equipment. This storage area is utilised by other professional fishermen during the salmon and herring seasons at Cheyne Beach.

14. Since the commencement of the lease in 1995, the lease has been assigned to other Westerberg family members. The lease was assigned to the current partners Tony David Westerberg and Jeffrey Neil Westerberg t/as Westerberg Bros in August 2010.
15. In July 2001 Council received a request from Westerberg Bros to lease an additional 2 hectares of land within Reserve 878 to develop commercial plant facilities to accommodate the freezing and packaging of salmon and herring.
16. This request was not supported by Council at OCM on 18 September 2001, as the former Department of Land Administration advised they would not approve a lease for this purpose. The Department recommended that no additional lots not already gazetted within Reserve 878 should be released without a comprehensive structure plan being undertaken for Cheyne Beach.

DISCUSSION

17. In line with Council Policy Property Management (Leases and Licences), City officers met with representatives for the Westerberg Bros to discuss the renewal of the waterfront lease and the potential relocation to available alternate sites not located on the waterfront.
18. Council Policy Property Management (Leases and Licences) adopted in 2012 provides that:
 - a. No new Commercial Fishing Accommodation leases or licences will be granted on waterfront property.
 - b. Existing waterfront Commercial Fishing Accommodation leases and licences will be reviewed 12 months prior to expiry allowing environmental protection to be considered prior to any existing lease or licence renewal.
 - c. Any renewal of existing leases and licences will be for a maximum 5 year term.
19. The lessee advised the existing buildings on site 3 would not withstand relocation to an alternate site due to age. The option of building new structures on an alternate site is not considered financially viable by the lessee and may lead to the early closure of their fishing business.
20. The lessee has requested a new 10 year lease term and that Council consider relaxing the policy with regards to the 5 year renewal term. It was suggested that the salmon and herring industry operating on the south coast of WA may struggle to survive past this 10 year term due to ongoing regulatory restrictions and costs associated with the fishing industry.
21. A lease can be considered with commercial fishermen seeking accommodation at Cheyne Beach, provided they are actively engaged in the fishing industry and hold a current commercial fishing licence issued by the Department of Fisheries Western Australia.
22. It is noted the lessee has provided a current commercial fishing licence for Cheyne Beach.
23. It is proposed there be a lease special condition detailing the lessees structures including buildings on the site as follows:

- a. The lessee acknowledges and agrees that structures including buildings on the site maybe damaged or destroyed by the action of tides and swell on the foreshore boundary and the useable area of the site will continue to diminish. All structures and buildings are the liability of the tenant and the Lease/Licence is of the land only.
 - b. No works are to be conducted on or adjacent to the site for the purposes of or with the intent of protecting the site or diminishing erosion of the site.
 - c. No works are to be conducted on or adjacent to the site, whether remedial or otherwise, without the permission of the City.
 - d. The tenant agrees at its cost to render safe and, if requested by the City, immediately remove any structure or building that has or may be adversely affected by the action of tides or swell or lack proper structural support or that have or will become unsafe, in the opinion of the City.
 - e. The tenant will indemnify the City against any loss or claim resulting from the tenant's occupation on the site.
24. Should Council approve a lease renewal term of 10 years, it is recommended there be a special condition within the lease and licence that upon termination, no renewal will be offered for sites 2 and 3 Cheyne Road and relocation to lots not on the waterfront be considered.
25. It is noted in March 2015 Council endorsed the Cheyne Beach Improvement Plan which proposes a number of improvements including a public day use area off Cheyne Road adjoining the licence area. The lessee has been consulted and is supportive of the plan.

GOVERNMENT & PUBLIC CONSULTATION

26. The Department of Lands will be consulted, as it is a requirement of Section 18 of the *Land Administration Act 1997* that the Minister for Land's consent is obtained.
27. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased/licensed land and buildings. The Act requires the following:
- a. A local government must give local public notice of the proposed lease/licence inviting submissions from the public, for a period of two weeks.
 - b. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
 - c. A local government can then proceed with the lease/licence.
28. The new lease and licence will be advertised to comply with the requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

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

31. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased/licensed land and buildings including advertising requirements. The proposed lease and licence will be advertised.
32. The *Aboriginal Heritage Act 1972* applies to any place or object of importance to persons of Aboriginal descent and Section 17 of this Act makes it an offence to destroy, damage or alter in any way an Aboriginal site or object. This Act applies to known and unknown sites.
33. In past discussions with the local Noongar community regarding the Cheynes Beach area, including visits on site, it is known to staff that there are areas in this locality of significance to the Noongar community. The City is proposing a full Aboriginal Heritage Survey to consider a range of future proposals in the Cheynes locality to manage any risk of disturbing Aboriginal cultural heritage. This will include the potential development of the undeveloped fishermans' leases south of Cheyne Beach Road.

POLICY IMPLICATIONS

34. Council adopted a revised Property Management – Leases and Licences Policy in September 2012.
35. The Policy aims to ensure that all requests for leases and licences will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
36. The Policy provides that any lease renewal for Commercial Fishing Accommodation will be for a maximum 5 year term.
37. The Lessee has requested a 10 year lease renewal term. The longer term provides the Lessee with further confidence in their fishing enterprise at Cheyne Beach and reduces costs to lessee of a new lease in 5 years time.
38. It is recommended that Council relax the policy with regards to the 5 year renewal term and consider a new 10 year lease term. This is on the basis the current lessee has sizeable investment within the site that could not easily be relocated, the family occupying the sites for in excess of sixty years and the benefit of the sites offered to other Cheyne Beach commercial fisherman.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Rating	Mitigation
Reputation: <i>Renewal of lease and licence not approved.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction.</i>
Reputation: <i>If new lease and licence are not approved – accommodation for the Cheynes fishing industry will be limited.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction.</i>
Reputation: <i>New lease not approved – Current lessee forced to relocate if alternate site is available – may lead to closure of fishing business</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>City to manage lessee reaction in a measured way. Consider relocation assistance to an alternate site at Cheyne Beach.</i>

FINANCIAL IMPLICATIONS

- 40. All costs associated with the development, execution and completion of the lease and licence documentation will be met by the lessee.
- 41. The new lease rental will be determined by market valuation proved by a licensed Valuer.
- 42. The new lease rental will be placed into the Cheyne Beach Improvement Reserve.

LEGAL IMPLICATIONS

- 43. The Deed will be prepared by City's lawyers, at the lessee expense.
- 44. The licence does not grant any rights of exclusive use or occupation over the land or within the licensed area.

ENVIRONMENTAL CONSIDERATIONS

- 45. Lots 2 and 3 are located on foreshore land where significant erosion is evident. With the trend of rising sea levels and increased extreme storm events, it is envisaged that this erosion will continue into the future and this may impact on the structural integrity of the existing buildings on Lots 2 and 3.
- 46. It is proposed to include special conditions in the lease to ensure no works are undertaken with the intent of protecting the site or diminishing erosion of the site. So no active interference by the lessee is permitted. Further, indemnification clauses will be included such that the City is not liable for any damage to the existing buildings as a result of continued erosion.

ALTERNATE OPTIONS

47. Council may:
 - a. Approve the lease and licence for a 10 year term and relax the policy; or
 - b. Approve the lease and licence as per policy with a 5 year term; or
 - c. Decline the lease.
48. Should Council decline the lease, Westerberg Bros will need to work with the City to find an alternative location if they wish to continue to reside at Cheyne Beach to undertake commercial fishing operations. This may result in early closure of its fishing operations given the cost involved to relocate. However Council may consider some sort of assistance with relocation.
49. Westerberg Bros may be required to vacate the property, demolish and remove all infrastructure including buildings and make good the land.

SUMMARY CONCLUSION

50. It is understood the Westerberg family business has occupied lots 2 and 3 Cheyne Road for the past sixty years and have been the motivating force behind the Cheyne Beach fishing industry.
51. While Westerberg Bros are seeking Council approval to remain on the lots for a further 10 years, it is recognised that the lots foreshore boundaries are under pressure from coastal erosion. This may result in the erosion of the useable lease area and it is possible that existing buildings on site may be damaged.
52. The lessee acknowledges and agrees that no works are to be conducted on or adjacent to the site for the purposes of or with the intent of protecting the site or diminishing erosion of the site.
53. It is recommended that Council consider relaxing the Property Management (Leases and Licences) Policy provision for the renewal of commercial fishing accommodation leases and licences for a maximum 5 year period and grant the requested 10 year term.
54. Westerberg Bros anticipate the fishing industry at Cheyne Beach may not be viable for economic reasons into the future past this 10 years year period.
55. It is recommended that the proposed renewal of lease and licence to Westerberg Bros at Cheyne Beach for a 10 year term be supported.

Consulted References	:	<ul style="list-style-type: none">• Council Policy – Property Management (Leases and Licences)• <i>Local Government Act 1995</i>• <i>Land Administration Act 1997</i>
File Number (Name of Ward)	:	PRO230, A72350 (Kalgan Ward)
Previous Reference	:	OCM 18.09.2001 Item 11.3.2 OCM 18.09.2012 Item 1.1 OCM 26.11.2013 Item CSF034

**CSF189: NEW LEASES – CHEYNE BEACH HOLIDAY ACCOMMODATION
– CROWN RESERVE 878, CHEYNE BEACH**

Land Description : Portion of Crown Reserve 878 Lot 7442 on Deposited plan 214689 the subject of Head Certificate of Title Volume LR3082 Folio 959, Cheyne Beach

Proponent : City of Albany

Owner : Crown

Attachments : Standard Cheyne Beach Holiday Accommodation Lease

Supplementary Information & Councillor Workstation: :

- Schedule of Submissions dated 02/12/2013
- Schedule of Submissions dated 15/05/2015

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

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 2014-2018:
 - **Key Theme:** Civic Leadership
 - **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
 - **Strategic Initiative:** 5.1.2 Develop informed and transparent decision making processes that meet our legal obligations.

Maps and Diagrams:



In Brief:

- Council is requested to consider the proposed 29 Cheyne Beach Holiday Accommodation Leases for sites currently occupied on portion of Crown Reserve 878.
- Current leases are due to expire 31 December 2015.
- The recommendation proposes that Council approve the new leases using the standard Cheyne Beach Holiday Accommodation Lease Agreement.

RECOMMENDATION

**CSF189: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council:

1. **APPROVE** the following new Cheyne Beach Holiday Accommodation leases on Baxteri Road, Cheyne Beach being portion of Reserve 878, for the following:

Site Number	Name	Lease area (m2)
1	Gaetano and Robyn Lee D'Aprile	1000
2	Cornelis (JNR) and Katarina Wals	1000
3	Graeme Geoffrey Castlehow	1083
4	James Gerald Kelly and Yvonne Winifred Attwell	1000
5	Stanley John and Christine Elizabeth McCoy	1000
6	John Stewart and Shirley Anne Gibbons	1000
7	Geoffrey Allan and Dianna Lucille Lodge	1000
8	Kevin William and Judy Marie Roney	1000
9	Brian Ernest and Colleen Jean Sinclair Hammer	1000
10	Julian Charles Smith	1000
11	David Andrew and Ann Marie Holland	1000
12	Richard Turpin	906
13	Charles Lister and Maureen Carmel Gilbert	825
14	Michael Douglas and Denise Irene King	831
15	Shane John Jackman	1202
16	David Joseph and Kim Therese Killey	935
17	Peter Allan and Raeline Joanne Smith	993
18	Robyn Jillian Blight	953
19	Ian Thomas Neil and Elsie Kristina Smith	860
20	Brian Lee and Jeanette May Fuller	860
21	Tom Ellis Bowering	860
22	Paul Nathan and Chantel Margaret Lawson	860
23	The Estate of Kenneth Reginald King	860
24	Stanley Graham and Patricia Mary Wallis	860
25	Geoffrey Norman and Anne Marie Thomas	860
26	Steven Edward and Maxine Zoe Augustson	860
27	Marlene Evelyn Lenstra, Sylvia Deman, Eric Ronald Brouwer, Jillian Cynthia Brouwer, Dorothea Helen Brouwer, Maree Wilma Deimel, John Christian Brouwer	860
28	Kevin Francis and Moira Johnston Hazel	865
29	John Anthony and Dianne Elizabeth Ciprian	860

2. **ENDORSE** the following lease conditions to be applied:

- a. The format and conditions of the Standard Cheyne Beach Holiday Accommodation Lease Agreement to be used for the approved leases.

- b. Lease term being a maximum of 21 years commencing 1 January 2016.**
- c. Lease permitted use being 'Holiday Accommodation' in accordance with the terms of the Lease and the Management Order for the reserve.**
- d. Lease commencement rent being \$2,500 plus GST per annum, as provided by licensed Valuer.**
- e. Rent reviews by market valuation every three years with Consumer Price Index applied for intervening years.**
- f. All costs associated with the preparation, execution and completion of the Deed of Lease being payable by the lessee.**
- g. All costs associated with the ongoing operations of lease property being payable by the lessee.**
- h. The proposed lease being advertised to comply with Section 3.58 of the *Local Government Act 1995* requirements.**
- i. Pursuant to Section 18 of the Land Administration Act 1997, the Minister for Lands consent being obtained.**
- j. Lease being consistent with Council Policy – Property Management (Leases and Licences).**

CSF189: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HORTIN

SECONDED: COUNCILLOR GREGSON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CSF189: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. APPROVE the following new Cheyne Beach Holiday Accommodation leases on Baxteri Road, Cheyne Beach being portion of Reserve 878, for the following:

Site Number	Name	Lease area (m2)
1	Gaetano and Robyn Lee D'Aprile	1000
2	Cornelis (JNR) and Katarina Wals	1000
3	Graeme Geoffrey Castlehow	1083
4	James Gerald Kelly and Yvonne Winifred Attwell	1000
5	Stanley John and Christine Elizabeth McCoy	1000
6	John Stewart and Shirley Anne Gibbons	1000
7	Geoffrey Allan and Dianna Lucille Lodge	1000
8	Kevin William and Judy Marie Roney	1000
9	Brian Ernest and Colleen Jean Sinclair Hammer	1000
10	Julian Charles Smith	1000
11	David Andrew and Ann Marie Holland	1000
12	Richard Turpin	906
13	Charles Lister and Maureen Carmel Gilbert	825
14	Michael Douglas and Denise Irene King	831
15	Shane John Jackman	1202
16	David Joseph and Kim Therese Killey	935
17	Peter Allan and Raeline Joanne Smith	993
18	Robyn Jillian Blight	953
19	Ian Thomas Neil and Elsie Kristina Smith	860
20	Brian Lee and Jeanette May Fuller	860
21	Tom Ellis Bowering	860
22	Paul Nathan and Chantel Margaret Lawson	860
23	The Estate of Kenneth Reginald King	860
24	Stanley Graham and Patricia Mary Wallis	860
25	Geoffrey Norman and Anne Marie Thomas	860
26	Steven Edward and Maxine Zoe Augustson	860
27	Marlene Evelyn Lenstra, Sylvia Deman, Eric Ronald Brouwer, Jillian Cynthia Brouwer, Dorothea Helen Brouwer, Maree Wilma Deimel, John Christian Brouwer	860
28	Kevin Francis and Moira Johnston Hazel	865
29	John Anthony and Dianne Elizabeth Ciprian	860

2. ENDORSE the following lease conditions to be applied:
 - a. The format and conditions of the Standard Cheyne Beach Holiday Accommodation Lease Agreement to be used for the approved leases.
 - b. Lease term being a maximum of 21 years commencing 1 January 2016.
 - c. Lease permitted use being 'Holiday Accommodation' in accordance with the terms of the Lease and the Management Order for the reserve.
 - d. Lease commencement rent being \$2,500 plus GST per annum, as provided by licensed Valuer.
 - e. Rent reviews by market valuation every three years with Consumer Price Index applied for intervening years.
 - f. All costs associated with the preparation, execution and completion of the Deed of Lease

- being payable by the lessee.
- g. All costs associated with the ongoing operations of lease property being payable by the lessee.
 - h. The proposed lease being advertised to comply with Section 3.58 of the Local Government Act 1995 requirements.
 - i. Pursuant to Section 18 of the Land Administration Act 1997, the Minister for Lands consent being obtained.
 - j. Lease being consistent with Council Policy – Property Management (Leases and Licences).

BACKGROUND

2. Crown Reserve 878 is under management order H359478 issued to the City of Albany with the power to lease, sub-lease or licence for the purpose of “Recreation, Camping, Holiday Accommodation, Accommodation Associated with the Fishing Industry and Fire Station ” for any term not exceeding 21 years subject to the consent of the Minister for Lands.
3. Crown Reserve 878, with an area of approximately 115 hectares is located at Cheyne Beach at the southern end of Hassell Beach. The Reserve is surrounded by approximately 3,500 hectares of National Park under the management of the Department of Parks and Wildlife.
4. The reserve currently hosts 29 Holiday Accommodation Leases, seven Accommodation associated with the Fishing Industry Leases with one Fishing licence. It is noted the Caravan Park was originally part of the reserve but this has been excised and is now freehold land.
5. Each of the 29 holiday accommodation leasehold sites are located in Baxteri Road. There are 11 sites located on the high side of Baxteri Road, with the remaining sites located on the ocean side of the road. The sites are generally similar in size and shape ranging from 825m² to 1202m².

Creation of leasehold sites

6. It is understood the Cheyne Beach area was initially settled by commercial fishermen. Historically the local farming community also visited and had their holidays in the area. Shacks were constructed to accommodate longer term stays.
7. In the 1960's the former Department of Lands and Surveys took steps to address illegal squatting along the entire WA coast and the removal of illegal shacks. As a result in March 1972 the former Shire of Albany requested that portion of Reserve 878 be set aside for holiday chalets to allow for relocation of illegal squatters shacks.
8. In September 1980 land was vested for Holiday Accommodation, with the power to lease for a maximum of 21 years.
9. In 1983 the then Shire sought and received endorsement of the Department of Lands and Surveys to Council proposal to lease 29 sites for holiday chalets for a term of 21 years.
10. It was proposed these lots would cater for the demand from people living in the surrounding rural areas for holiday accommodation at Cheynes, and assist with the relocation of existing squatters shacks.

Leases

11. In the 1988 and 1989 the leasehold sites were tendered out on the following conditions, in summary:
 - Minimum cost of leasehold tender being \$5,000.
 - Term of 21 years.
 - Holiday accommodation only – permanent occupancy is not permitted.
 - Lessee responsible for services such as rainwater collection, on-site effluent disposal system and connection to electricity supply.
 - Building improvements to be built within two years of lease agreement.
 - No animals or birds allowed.
12. It is noted that amounts between \$5,000 and \$7,300 were paid by the successful tenders for the original 21 year lease. The initial lease rental of \$145.00 per annum was set as the equivalent to Minimum Land Rate at the time set by Council and reviewed every 2 years.
13. The lessees have constructed buildings and improvements on the leased land which are the sole responsibility of lessees.
14. The original lease permitted short term stay holiday accommodation limiting occupancy of leasehold properties to no more than three months within any one year and permanent occupation was not permitted.
15. The leases expired in 2009. In October 2010 Council approved new holiday accommodation leases for terms of up to five years expiring 31 December 2015. This was deemed sufficient time for LandCorp to consider the expansion of the Cheyne Beach town site and conversion of leasehold sites to freehold.

Possible leasehold sites being converted to freehold

16. Council had previously supported the Cheyne Beach leasehold sites being converted to freehold. At its meeting on 18 September 2001 the City resolved to write to the State Government requesting LandCorp prepare a detailed structure plan over Reserve 878 and consider converting the leases into freehold titles at Cheyne Beach.
17. At that time, LandCorp were unable to commit to undertaking the structure planning work and freeholding of the leasehold sites.
18. In August 2005 Council again resolved to advocate with LandCorp to convert the leases to freehold and expand the settlement of Cheyne Beach. A petition signed by the lessees in support of freeholding was also referred to LandCorp identifying that the community was supportive of the request.
19. Again Landcorp who were managing a number of priority projects across the state could not commit to doing further feasibility studies and the preparation of the structure plan.
20. In March 2011, on advice from LandCorp, the City lodged a Regional Development Assistance Program (RDAP) application for an initial feasibility study to determine the likely infrastructure costs and environmental impacts of expanding the town site, including considering leasehold sites being converted to freehold.
21. In April 2012 an update from LandCorp was provided to the City with regard to the RDAP application, noting:

- The Board determined the assessment would not be funded this year but remained “active”.
 - The proposal had significant servicing issues, such as water supply, sewerage and power supplies.
 - The proposal had problems due to the long lead time to actual development as was not able to be implemented quickly.
 - The assessment would be influenced by the outcome of the Department of Health Country Towns Sewerage Policy and WA planning Commission’s Lower Great Southern Strategy.
 - The proposal would be represented to the Board again for a decision.
22. In April 2013 LandCorp advised the City the Cheyne Beach proposal had not been successful due to unproven demand for land as a result of the Grange project being placed on hold.
23. LandCorp suggested that the City discuss converting the leasehold sites to freehold with the (former) Department of Regional Development and Lands who advised they may consider a proposal from the City subject to the purchase of the land as a single lot.
24. The purchase of land proposal would require support from the WA Planning Commission to subdivide the land to create individual lots for each of the current leases. The City was advised that substantial infrastructure upgrade would be required to progress at considerable cost to Council.
25. Preliminary investigations into costs involved in the purchase of the land, required infrastructure upgrades, extension of services such as power supply and a sewerage treatment plan, indicated that it would not be viable to establish individual freehold lots.
26. Given the difficulties in the conversion to freehold, including; the new set backs on coastal development which would likely require the 18 ocean side sites be moved, the enormous cost involved in purchasing a super lot and subdividing, the financial burdens that would be placed on both the City of Albany and lessees as a result, the City determined it is unable to recommend to Council to further pursue freeholding of leasehold sites.

DISCUSSION

27. In November 2014, the City met with lessee’s in a community forum to discuss all lease matters past lease expiry on 31 December 2015. The lessee’s were provided with an update on planning matters regarding the conversion of leasehold land to freehold titles and future lease options were discussed.
28. Lessees were invited to provide comment and complete a prepared survey on the future lease options. 22 responses were received. The feedback, statutory obligations and City policies were taken into consideration when developing the new standard Cheyne Beach Holiday Accommodation Lease Agreement.

29. In summary, key aspects of the proposed standard lease are:
- Each lease needs to be approved by the Minister for Lands;
 - Lease term being a maximum of 21 years;
 - Lease rental being \$2,500 plus GST per annum, provided by a Licensed Valuer based on the unimproved market land rental value;
 - Rent reviews by market valuation every three years with CPI applied for intervening years;
 - Lease permitted use being 'Holiday Accommodation';
 - Leased property must not be used as the primary place of residence;
 - Leased property and the locality are not suitable for permanent accommodation;
 - Leased property cannot be rented, hired or let;
 - Camping permitted in line with the Caravan & Camping Ground Regulations 1997;
 - Buildings are the sole responsibility of tenant;
 - On termination buildings and improvements are to be removed and the land restored unless otherwise notified by the Landlord;
 - Each tenant shall provide adequate electricity supply services, potable water supply and shall maintain a rain water storage tank of at least 55,000 litres, adequate effluent disposal system and parking;
 - No pets allowed;
 - Special environmental conditions detailing clearing arrangements and weed control; and
 - Cheyne Beach Planning Policy will apply to future development approvals.
30. The Department of Lands has provided preliminary Minister's consent to the proposed standard lease.
31. In April 2015, the proposed standard lease was forwarded to lessees for comment. All six comments received raised no concerns with the lease.
32. The proposed standard lease was presented to the Elected Members Strategic Workshop on 16 June 2015 for comments prior to negotiating individual leases that are subject to Council approval and Minister for Lands consent.

GOVERNMENT & PUBLIC CONSULTATION

33. The Department of Lands has been consulted, as it is a requirement of Section 18 of the *Land Administration Act 1997* that the Minister for Land's consent is obtained. Section 18 preliminary consent has been granted.
34. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased/licensed land and buildings. The Act requires the following:
- a. A local government must give local public notice of the proposed lease/licence inviting submissions from the public, for a period of two weeks.
 - b. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
 - c. A local government can then proceed with the lease/licence.
35. Any new Cheyne Beach Holiday Accommodation lease will be advertised to comply with the requirements of Section 3.58 of the *Local Government Act 1995*.

STATUTORY IMPLICATIONS

- 36. Section 18 of the *Land Administration Act 1997* states that a person shall not assign, sell, transfer or otherwise deal with interests on Crown land or create or grant an interest in Crown land without the prior approval in writing of the Minister for Lands. The Minister’s consent has been granted for the proposed new standard deed.
- 37. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased/licensed land and buildings including advertising requirements. The proposed leases will be advertised.
- 38. The *Aboriginal Heritage Act 1972* applies to any place or object of importance to persons of Aboriginal descent and Section 17 of this Act makes it an offence to destroy, damage or alter in any way an Aboriginal site or object. This Act applies to known and unknown sites.
- 39. The City is proposing a full Aboriginal Heritage Survey to consider a range of future proposals in the Cheynes locality to manage any risk of disturbing Aboriginal cultural heritage.

POLICY IMPLICATIONS

- 40. The recommendation is consistent with Council Policy – Property Management – Leases and Licences.

RISK IDENTIFICATION & MITIGATION

- 41. 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 approve proposed standard lease terms & conditions</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction.</i>
<i>Reputation: New lease is not approved – Lessee to remove buildings and make good the land</i>	<i>Unlikely</i>	<i>Major</i>	<i>Medium</i>	<i>City to manage lessee reaction in a measured way and ensure open communication with lessees.</i>
<i>Community: New lease is not approved – Lessee to remove buildings and make good the land</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>City to work with lessee to minimise any disruption to the nearby community.</i>

FINANCIAL IMPLICATIONS

- 42. All costs associated with the licence documentation of approximately \$450 plus GST will be met by the lessee.
- 43. The City has agreed to meet the survey and advertising costs totalling approximately \$7,200 plus GST.
- 44. It is proposed the new lease rental of \$2,500 plus GST per annum from each lessee be placed in a Reserve Fund for the sole purpose of facilitating community maintenance and enhancement projects in the Cheyne Beach locality.

LEGAL IMPLICATIONS

45. The proposed standard deed has been prepared by City's lawyer, at lessee expense.

ENVIRONMENTAL CONSIDERATIONS

46. There are no environmental considerations.

ALTERNATE OPTIONS

47. Council may:

- a. Approve the proposed new leases; or
- b. Decline the leases.

48. Should Council decline the leases, Council may direct that lessees continue to occupy on monthly holding over arrangements until lease matters are addressed to Council satisfaction.

49. Should Council decline the leases, lessees could be required to demolish and remove all buildings and improvements and make good the land to its original condition. Council could invite expressions of interest to construct holiday accommodation and enter into new lease arrangements with a new lessee.

SUMMARY CONCLUSION

50. The current Cheyne Beach Holiday Accommodation leases are due to expire on 31 December 2015.

51. For a number of years the City explored the expansion of the Cheyne Beach town site and the associated possibility of leasehold sites being converted to freehold title. However, it has since been determined by the City, that development conditions and major costs associated with freeholding sites would be prohibitive.

52. A standard lease has been developed with updated terms and conditions to be used for new leases.

53. It is recommended that the new 21 year leases to current lessees be supported.

Consulted References	:	<ul style="list-style-type: none"> • Council Policy – Property Management (Leases and Licences) 2012 • <i>Local Government Act 1995</i> • <i>Land Administration Act 1997</i>
File Number (Name of Ward)	:	PRO264, A174625 (Kalgan Ward)
Previous Reference	:	OCM 18/09/2001 Item 11.3.2 OCM 16/08/2005 Item 11.1.1 OCM 19/10/2010 Item 2.7

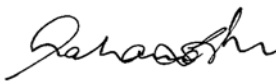
CSF190: POLICY OPTIONS FOR INCREASING ELECTED MEMBER PARTICIPATION IN TRAINING

Attachments : Discussion Paper: *Policy Options to Increase Elected Member Training Participation*.

Report Prepared by : Manager Governance & Risk Management (S Jamieson)

Responsible Officer : Chief Executive Officer (G Foster)

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 2014-2018:
 - a. **Key Theme:** 5. Civic Leadership
 - b. **Strategic Objective:** 5.1 To establish and maintain sound business and governance structures.
 - c. **Strategic Initiative:** 5.1.1 Develop informed and transparent decision making processes.

In Brief:

- To guide WALGA's future policy development and advocacy, Council consideration and feedback is requested on the attached Discussion Paper: *Policy Options to Increase Elected Member Training Participation*.
- Feedback, including general comments as well as answers to the questions on pages 30 - 31 of the attached paper, by **Friday, 13 November 2015**
- Following feedback from the sector, WALGA will prepare an item for future Zone and State Council consideration.

RECOMMENDATION

CSF190: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council:

- (1) **RECEIVE** the attached WALGA discussion paper titled: *"Discussion Paper: Policy Options to Increase Elected Member Training Participation"*.
- (2) **With the assistance of the Chief Executive Officer, prepare a Council response to the following questions:**
 - **Best Practice Induction Programs** – does Council support Local Governments adopting and delivering a structured and thorough Council induction program? If so, should legislation be changed for this to be a requirement, or should it remain voluntary?
 - **Training and Development Policy** – does Council support legislative amendments to require all Councils to review and adopt an Elected Member Training and Development Policy following every biennial election?
 - **Candidate Requirements** – does Council support legislative amendment to require candidates to attend an information session or complete an equivalent online information session prior to nominating for election?

CSF190: RESPONSIBLE OFFICER RECOMMENDATION

MOVED: COUNCILLOR HOLLINGWORTH
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CSF190: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- (1) RECEIVE the attached WALGA discussion paper titled: *“Discussion Paper: Policy Options to Increase Elected Member Training Participation”*.
- (2) With the assistance of the Chief Executive Officer, prepare a Council response to the following questions:
 - Best Practice Induction Programs – does Council support Local Governments adopting and delivering a structured and thorough Council induction program? If so, should legislation be changed for this to be a requirement, or should it remain voluntary?
 - Training and Development Policy – does Council support legislative amendments to require all Councils to review and adopt an Elected Member Training and Development Policy following every biennial election?
 - Candidate Requirements – does Council support legislative amendment to require candidates to attend an information session or complete an equivalent online information session prior to nominating for election?

BACKGROUND

2. The Minister for Local Government, the Department of Local Government and Communities, and other stakeholders have, over recent years, suggested that participation in Elected Member training should be mandatory or incentivised.
3. In response the Western Australian Local Government Association (WALGA), have prepared the attached discussion paper.
4. The discussion paper provides an opportunity for the Local Government sector to proactively shape the debate in relation to increased Elected Member participation in training prior to Government policy or legislative change.
5. The discussion paper comprises four sections:
 - a. Section One discusses the role of WALGA, outlines the importance and benefits of training, and explores the policy context in Western Australia and interstate;
 - b. Section Two outlines the existing training framework for Local Government Elected Members, including Council induction programs and accessibility features of the formal training framework;
 - c. Section Three explores policy options to increase Elected Member participation in training including options to compel or incentivise training; and
 - d. Section Four summarises the policy options and outlines a process for Local Government and stakeholder feedback.

DISCUSSION

6. Calls for greater Elected Member training are predicated on the belief that Elected Members who undertake training and professional development are better able to perform

- their role as an Elected Member and are able to offer greater strategic contributions to the Council's decision making processes.
7. The desire of state governments for increased Elected Member participation in training is not unique to Western Australia.
 8. For instance, the New South Wales Local Government Independent Review Panel recommended the introduction of mandatory Elected Member training in its 2013 report. Further, in 2014, training for Elected Members became mandatory for newly elected Members in South Australia.
 9. The discussion paper explores policy options for increasing Elected Member participation in training in this context of calls for Elected Member participation in training to be increased, six policy options have been explored:
 - a. Enhance desirability of training offerings;
 - b. Delivery of best practice Council induction programs;
 - c. Require Councils to adopt a training policy;
 - d. Require candidates to attend training prior to nominating for election;
 - e. Incentivise training through the remuneration framework; and
 - f. Mandate training for newly elected Elected Members.
 10. While the submission of general comments is welcome, the following questions have been prepared to assist in eliciting comparable information from Local Governments:
 - a. Best Practice Induction Programs – does Council support Local Governments adopting and delivering a structured and thorough Council induction program? If so, should legislation be changed for this to be a requirement, or should it remain voluntary?
 - b. Training and Development Policy – does Council support legislative amendments to require all Councils to review and adopt an Elected Member Training and Development Policy following every biennial election?
 - c. Candidate Requirements – does Council support legislative amendment to require candidates to attend an information session or complete an equivalent online information session prior to nominating for election?

GOVERNMENT & PUBLIC CONSULTATION

11. Following feedback from the sector, WALGA will prepare an item for future Zone and State Council consideration.
12. No additional public or public consultation has been conducted in preparation of this report.
13. Local Governments are invited to provide feedback on any and all of the policy options explored in this paper, and any other relevant matter, including their preferred policy framework by Friday, 13 November 2015.

STATUTORY IMPLICATIONS

14. There are no current statutory implications related to this report.
15. The state government and other stakeholders, in Western Australia, have suggested policy or legislative change to increase Elected Member participation in training.

POLICY IMPLICATIONS

16. The discussion paper proposes a number of options.
17. Council may also consider it appropriate to formally adopt the City's current Elected Member training and induction program implemented in October 2013.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation. Council consideration and feedback is not provided.</i>	<i>Possible</i>	<i>Minor</i>	<i>Medium</i>	<i>City Officers facilitate feedback from individual Elected Members.</i>

FINANCIAL IMPLICATIONS

19. Nil.

LEGAL IMPLICATIONS

20. Nil.

ENVIRONMENTAL CONSIDERATIONS

21. Nil.

ALTERNATE OPTIONS

22. Council may chose to provide a response either as an elected group; individual; or both.

23. Council may chose to explore other options and provide additional feedback.

SUMMARY CONCLUSION

24. It is recommended that Elected Members provide feedback to the Chief Executive Officer, who will in turn prepare an Officer Report and Recommendation for Council consideration.

Consulted References	:	Nil
File Number (Name of Ward)	:	All Wards
Previous Reference	:	Nil

**CSF191: ADOPTION OF THE BUDGET REVIEW FOR THE PERIOD
ENDING 31 JULY 2015**

Attachments : Budget Review for the period ending 31 July 2015
Report Prepared by : Business Analyst/Management Accountant (D Harrison)
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 2014-2018:
 - a. **Key Theme:** 5. Civic Leadership.
 - b. **Strategic Objective:** 5.1. To establish and maintain sound business and governance structures.
 - c. **Strategic Initiative:** 5.1.3_Integrated Planning Framework.

In Brief:

1. Local governments are required to conduct a budget review between 1 January and 31 March each financial year which is a requirement covered by regulation 33A of the Local Government (Financial Management) Regulations 1996. The Department recommends a review of the budget early in the financial year to amend carry forward projects from forecast to actual.
2. This review is for the period ending 31 July 2015 and will be followed by a proposed further review for the period ending 31 January 2016. Budget adjustments of an urgent nature will be brought to a Council Meeting as an item to be discussed when required and actioned outside of these reviews.

RECOMMENDATION

**CSF191: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council ADOPT the Budget Review for the period ending 31 July 2015

CSF191: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR BOWLES
SECONDED: COUNCILLOR PRICE

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CSF191: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ADOPT the Budget Review for the period ending 31 July 2015

BACKGROUND

2. Council adopted the 2015/2016 Budget on 28 July 2015 (total budget of \$104.8M comprising \$39.5M capital works, \$1.8M debt reduction and \$63.5M in operating expenditure).
3. This Budget Review identifies expenditure of \$1,346,244 for general works, variations and new projects. Funding of \$1,539,846 inclusive of reduction in expenditures, adjustment of grant funding, additional revenue, reserve funding and increase in opening funds has been identified in this review to maintain a surplus budget.

This budget review shows the 2015 -16 budget in a surplus position of \$193,602.

Executives, managers and officers with budget responsibility were consulted in the preparation of the Budget Review.

A copy of the Budget Review for the period ending 31 July 2015 is attached.

GOVERNMENT & PUBLIC CONSULTATION

4. Nil.

STATUTORY IMPLICATIONS

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

POLICY IMPLICATIONS

7. Nil.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Financial: Council does not approve the Budget Review</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>The existing Annual Budget would apply and proposed amendments would not apply.</i>

FINANCIAL IMPLICATIONS

BUDGET REVIEW FOR THE PERIOD ENDING 31 JULY 2015

This Review Maintains Council's Budget in a Surplus Position

	\$
GENERAL WORKS/VARIATIONS. (Additional Funds Required)	(1,346,244)
FUNDED BY	
- Reduction in Expenditure	-
- Adjustment in Grant/Contributions Funding	736,249
- Adjustment in Revenue	27,500
- Restricted Cash Adjustments	<u>359,100</u>
	<u>1,122,849</u>
Balance	<u>(223,395)</u>
- Adjustment to opening funds from forecast to actual 30 June	155,344
- Carry Forward Adjustment From 2014/15 Financial Year	261,653
2015/16 Budgeted Surplus	<u>193,602</u>

LEGAL IMPLICATIONS

9. Nil

ENVIRONMENTAL CONSIDERATIONS

10. Nil.

ALTERNATE OPTIONS

11. Adopt the Budget Review for the period ending 31 July 2015 with amendments (as specified by Council)

SUMMARY CONCLUSION

12. Nil.

Consulted References	:	Adopted Budget 2014-15 Local Government Act 1995
File Number (Name of Ward)	:	FM.BUG.2
Previous Reference	:	Annual Budget – Ordinary Council Meeting 28th July 2015

AR016: RISK MANAGEMENT, INTERNAL CONTROL AND LEGISLATIVE COMPLIANCE REPORT

Business Entity Name : City of Albany
Attachments : Report (Internal Report)
Report Prepared by : Manager Governance & Risk Management (S. Jamieson)
Responsible Officer : Deputy Chief Executive Officer (G Adams)

Responsible Officer's Signature:



CONFIDENTIAL ATTACHMENT

Attachment covered under Confidential Cover, in accordance with s5.23 (2) (c) and (e, iii) of the Local Government Act 1995, being: (e) a matter that if disclosed, would reveal - (iii) information about the business.

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014-2018:
 - a. **Key Theme:** 5. Civic Leadership
 - b. **Strategic Objective:** 5.1. To establish and maintain sound business and governance structures.
 - c. Strategic Initiative: Nil.

Maps and Diagrams:

In Brief:

- Receive the findings of the review of internal operations.

RECOMMENDATION

AR016: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council RECEIVE the CEO Review of Risk Management, Internal Control and Legislative Compliance Report.

AR016: COMMITTEE RECOMMENDATION

MOVED COUNCILLOR SUTTON
SECONDED COUNCILLOR HOLLINGWORTH

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 4-0

AR016: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the CEO Review of Risk Management, Internal Control and Legislative Compliance Report.

BACKGROUND

2. The objective of this report is to provide the Audit and Risk Committee with oversight in the areas of risk management, internal control and legislative compliance.

DISCUSSION

3. The reports have been distributed under confidential cover in accordance with section 5.23 of the *Local Government Act 1995*.
4. The attached reports detail the findings from internal and external reviews conducted in the areas of:
 - a. risk management;
 - b. internal control; and
 - c. legislative compliance.
5. Risk Management Report. The risk report demonstrates how key risks are being managed and controlled in order to either mitigate their impact or exploit their outcomes as opportunities of growth.
6. Risks are reported under two main organisational functions:
 - a. Strategic. Risk that effect the achievement of the Organisation vision and objectives in the Strategic Plan.
 - b. Operational. Risk of loss resulting from inadequate or failed internal processes, people and systems, or from external events.
7. Internal Control Review. Internal Control is a key component of a sound governance framework, in addition to leadership, long-term planning, compliance, resource allocation, accountability and transparency.
8. In September 2014, the Committee were advised that an improvement is required in the following areas as a matter of priority:
 - a. Occupational Safety and Health – Focussing the Attention Where it Counts.
 - b. Enterprise Risk Management – Embedding into the Safety & Health risk management processes.
9. Progress since last report:
 - a. Occupational Safety & Health:
 - Appointment of a qualified and experienced Safety and Health professional (Acting HR Manager)
 - OHS Policy & Procedures reviewed and updated.
 - b. Engagement of an external OSH Auditor.
 - OSH Audit Conducted in July 2015. Advised results will be known in approximately 4 weeks. (See Garry A, verbal briefing notes).
 - c. Workplace Safety Inspections.
 - A low cost mobile application was trialled (iAuditor) to conduct safety audits & inspections. This has resulted in positive worker take up.

- OSH Team working with IT Team to implement an online OSH system to record and enable analytical assessment (Incident, accident, hazard reporting, inspections, audits etc).

d. Transport Chain of Responsibility Legislation Implemented.

- This legislation places an onus on all parties within the transport chain of command, including management at all levels, to ensure compliance with road safety laws.
- This means anybody who has control in the company providing the transport services (not just the driver) may be liable. To put it simply, every employee and party involved in the chain must comply with the legislation or face harsh penalties.
- Acknowledged by Main Roads as the lead local government for the development of processes and engagement with contracted service providers.

GOVERNMENT & PUBLIC CONSULTATION

10. No specific government or public consultation was conducting in preparing this report.
11. Information contained in the report was sourced from industry and academic papers.

STATUTORY IMPLICATIONS

12. Regulation 17 of the Local Government (Audit) Regulations 1996 states:
*“(1) The CEO is to review the appropriateness and effectiveness of a local government’s systems and procedures in relation to —
(a) risk management; and
(b) internal control; and
(c) legislative compliance.
(2) The review may relate to any or all of the matters referred to in subregulation (1)(a), (b) and (c), but each of those matters is to be the subject of a review at least once every 2 calendar years.
(3) The CEO is to report to the audit committee the results of that review.”*
13. Section 7 of the Department’s Western Australian Local Government Accounting Manual provides a comprehensive internal control framework related to internal control and risk management.

POLICY IMPLICATIONS

14. Nil.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Business Interruption. <i>Identified risks are not appropriately addressed resulting in the impairment of service delivery.</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<p><i>Development of Health, Safety & Environment (HSE) compliance monitoring and resolution.</i></p> <p><i>Continue to work towards integrating risk management into the day to day decision making.</i></p> <p><i>Continue to actively promote the following behavioural examples:</i></p> <ul style="list-style-type: none"> - <i>I will conduct a risk assessment when required.</i> - <i>I will proactively manage all risks.</i>

FINANCIAL IMPLICATIONS

16. Nil.

LEGAL IMPLICATIONS

17. The understanding and management of risk is determined by OH&S Law in Australia covering common law, duty of care, criminal law and statute law (legislation).
18. The City of Albany needs to demonstrate that the executive, managers, employees and contractors are required to know and do in order to ensure where reasonably practicable:
- a. The workplace, plant and substances uses are safe, with a minimal risk to health;
 - b. Systems of safe work are in place;
 - c. Sufficient information, instruction, training and supervision is provided; and
 - d. Consultative process whereby employees are able to contribute to decisions affecting their health, safety and welfare at work.
19. In managing risk it is important that the term “reasonably practicable” is well understood.
20. The law defines “reasonably practicable” as having feasible regard to:
- a. Severity of an injury or harm to health that may occur if the risk is realised;
 - b. Degree of likelihood of the risk eventuating;
 - c. Know of the hazard and mitigation steps;
 - d. Expense, difficulty or inconvenience of taking alternative action; and
 - e. Any conflicting responsibilities the employer may have.
21. It is important in meeting the legislative requirements that the City understands that the balance of the requirements is based on a performance, rather than a prescriptive, standard.

ENVIRONMENTAL CONSIDERATIONS

22. Nil.

ALTERNATE OPTIONS

23. Nil.

SUMMARY CONCLUSION

24. Nil.

Consulted References	:	<ul style="list-style-type: none"> • <i>Local Government Act 1995</i> • <i>Local Government (Audit) Regulations 1996</i> • <i>Department Circular: 02-2014</i> • <i>Revised Operational Guideline No. 09 'Audit in Local Government,' available on the Department's website: www.dlg.wa.gov.au (September 2013).</i>
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	AR007 – September 2014

WS083: CONTRACT C15015 - PROVISION OF CLEANING SERVICES

Proponent : City of Albany
Owner : City of Albany
Report Prepared by : Depot Administration Coordinator (T Sudran)
Responsible Officer : Executive Director Works & 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 2014-2018:
 - 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:

- Council approval is sought to appoint the preferred tenderer to provide cleaning services for the City of Albany.
- The contract is to commence on 1st October 2015 until 30th September 2018 with an option for renewal for a further two (2) years.

RECOMMENDATION

WS083: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council ACCEPT the tender from OCS Cleaning Services Pty Ltd.

WS083: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR BOWLES
SECONDED: COUNCILLOR GREGSON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 4-0

WS083: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ACCEPT the tender from OCS Cleaning Services Pty Ltd.

BACKGROUND

2. Tenders were called for the Provision of Cleaning Services for a period of up to five years (including option). The tender is for the following Council buildings:
 - a) Albany Airport
 - b) Library – 221 York Street
 - c) Town hall – York Street
 - d) City Depot – 39 Mercer Road
 - e) Albany Regional Day Care Centre – Corner Grey & Collie Street
 - f) Lotteries House – 211-217 North Road
 - g) Administration Building – North Road
 - h) Albany Visitors Centre – Old Railway Station, Proudlove Parade
 - i) Vancouver Arts Centre – 85 Vancouver Street
 - j) Hanrahan Landfill Site/AWARE Centre – Cumming & Chester Pass Roads
 - k) National ANZAC Centre – 1347 Forts Road
 - l) Albany Leisure and Aquatic Centre – Barker Road

3. The current contract expires September 2015.

DISCUSSION

4. A request for tender was published in the West Australian on 3rd June 2015 and the Albany Weekender on 4th June 2015.
5. Tender documents were evaluated 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:-

Criteria	% Weight
Cost	30
Relevant Experience	20
Key Personnel skills and experience	15
Tenderer's Resources	15
Demonstrated Understanding	15
Corporate Social Responsibility	5
Total	100

6. A total number of nineteen tender documents were issued with three completed tender documents submitted on or before the stipulated closing date and time.
7. The following table summarises the tenderers and the overall evaluation scores applicable.

Tenderer	Weighted Score
OCS Services Pty Ltd	697.08
CGS Quality Cleaning	588.98
CMC Property Services	567.28

8. OCS Services Pty Ltd is the City's incumbent contractor and has provided a reliable and quality service during the term of the current contract.

GOVERNMENT & PUBLIC CONSULTATION

9. Not applicable.

STATUTORY IMPLICATIONS

10. 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 \$100,000.00.
11. 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.
12. Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council’s decision.

POLICY IMPLICATIONS

13. The City of Albany Tender Policy and Regional Price Preferences Policy are applicable to this item.

RISK IDENTIFICATION & MITIGATION

14. The risk identification and categorisation relies on the Citys Enterprise Risk Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Property <i>Contract personnel have access to facilities after hours and could access confidential information or steal items</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Importance is given to the experience and reliability of the tenderer in the evaluation process</i>
Financial & Organisational Operations <i>Non compliance, delays or failure to carry out contracted works 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 services</i>
Reputation <i>Community dissatisfied with the standard of cleanliness of facilities</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>General conditions of contract allow for contract termination on the basis of failure to supply services</i>

FINANCIAL IMPLICATIONS

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

LEGAL IMPLICATIONS

17. Nil

ENVIRONMENTAL CONSIDERATIONS

18. Nil

ALTERNATE OPTIONS

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

SUMMARY CONCLUSION

20. On reviewing the submissions, the evaluation team assessed OCS Services Pty Ltd as being the most advantageous tenderer across the evaluation criteria for the provision of the City's cleaning services. It is recommended that the nominated tenderer be accepted.

Consulted References	:	<i>Local Government (Functions and General) Regulations 1995</i> <i>Council Policy – Purchasing (Tenders & Quotes)</i> <i>Council Policy – Buy Local (Regional Price Preference)</i>
File Number (Name of Ward)	:	<i>C15015</i>
Previous Reference	:	<i>C12009</i>

WS084: PROPOSAL TO INVESTIGATE FEASIBILITY OF SHARK BARRIER AT MIDDLETON BEACH VERSION TWO

Land Description	: Middleton Beach
Attachments	: Review of the Dunsborough Beach Enclosure Trial, Hydrobiology 2014
Report prepared by	: Executive Director Works & Services (M Thomson) Manager Governance & Risk Management (S Jamieson)
Responsible Officer	: Executive Director Works & 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 2014-2018:
 - a. **Key Theme:** 2. Clean, Green and Sustainable.
 - b. **Strategic Objective:** 2.1. To protect and enhance our natural environment.
 - c. **Strategic Initiative:** 2.1.2. Sustainably protect and enhance our iconic coastline and reserves.
 - d. **Strategic Outcome:** Projects and programs that reflect the importance of our coastline and natural reserves.

In Brief:

- The City of Albany has been offered part-funding from the State Government to install a shark barrier enclosure at Middleton Beach in 2015/16.
- Preliminary investigations into the proposal have been undertaken, however further detailed analysis is required prior to Council making a commitment to proceed with any works.
- Council consideration is sought into undertaking a further detailed feasibility study.

RECOMMENDATION

WS084: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council:

- 1) **SUPPORT** conducting a feasibility study into the installation of a shark barrier enclosure at Middleton Beach for future consideration.
- 2) **AGREE** to undertake relevant stakeholder and community consultation in respect to the installation of a shark barrier enclosure at Middleton Beach in conjunction with the feasibility study.

WS084: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HOLLINGWORTH
SECONDED: COUNCILLOR BOWLES

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 4-0

WS084: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- 1) SUPPORT conducting a feasibility study into the installation of a shark barrier enclosure at Middleton Beach for future consideration.
- 2) AGREE to undertake relevant stakeholder and community consultation in respect to the installation of a shark barrier enclosure at Middleton Beach in conjunction with the feasibility study.

BACKGROUND

2. Following an increased incidence of fatal shark attacks along the West Australian coastline, the State Government has committed funds to research and trial various shark hazard mitigation treatments.
3. Shark barrier trials are currently being conducted by the City of Busselton and City of Cockburn. Preliminary results of the trial have indicated an improvement in the public's perception of swimming safety with negligible impact on the marine environment
4. Given the success of these trials, as part of the 2015/16 State budget, the State Government announced two beaches would receive funding of \$400,000 to install shark enclosures.
5. It was officially announced in July that \$200,000 would be provided by the State Government to part fund a shark barrier within the City of Albany at Middleton Beach.
6. Previous preliminary studies identified Middleton Beach as a possible suitable location due to favourable coastal conditions and the popularity of the beach.

DISCUSSION

7. Shark barriers are designed to prevent the movement of sharks into bathing areas, which is different to shark netting which is designed to ensnare sharks and thus deplete their population.
8. Noting the potential financial impost now and into the future and the high public profile of such an initiative, Council consideration is necessary as to whether it wishes to further progress this initiative.
9. It is proposed that prior to making any commitment to physical works that a more detailed feasibility study be undertaken, which will enable Council to make an informed decision on the matter.

10. The proposed feasibility will address the following:
 - a. Suitability of the proposed location taking into consideration coastal conditions in more detail;
 - b. Options analysis;
 - c. Whole of life cost analysis on those options;
 - d. Provide advice on approvals required;
 - e. Consider the stakeholder and community consultation.
11. Depending on approvals and the feasibility the intention is to install the shark barrier this summer.
12. City officers have conducted some preliminary research on two local governments in Western Australia who are trialling shark barriers. The two examples are detailed below.

Example 1 – Temporary Installation “Eco Shark Barrier”

13. The City of Cockburn has undertaken a three year trial of the “Eco Shark Barrier” installed at Coogee Beach, which commenced in 2014.
14. The “Eco Shark Barrier” will remain in place during both summer and winter months and will test the barriers ability to withstand wave action and storm events (*this varies from the City of Busselton trial discussed below that was only installed during summer*).
15. The Eco Shark Barrier comprises of clip together uPVC star segments hung between a continuous uPVC float line on the water surface and a continuous anchored line running along the sea bed.
16. The barrier forms an enclosure approximately 300 metres long by 75 metres wide parallel to the beach.



Image 1 – Eco Shark Barrier installed at Coogee Beach March 2014

17. The proponent Eco Shark Barrier Pty Ltd retains responsibility for the installation, management, insurance, cleaning; and monitoring of the barrier for the entire period of the trial including its removal at the end of the trial, if required.
18. The expense to the City of Cockburn for this trial was minimal due to the initial agreement between the suppliers and the City to test market success of the new product.
19. According to a recent report in 2014 by the City of Cockburn, the barrier trial for the first year is considered to have been a success. To date there has been:
 - No injuries of any kind reported to have occurred by beachgoers on account of the barrier being in place.
 - No marine animals became entrapped in the barrier or otherwise came to observable harm on account of the barrier being in place. Observations during the course of the trial in fact showed that the barrier presented a welcome marine habitat for various fishes and other sea creatures.
 - No observable accretion or erosion occurred over the length of the trial.
 - No reported or observed floating seaweed or flotsam being caught on the barrier and building up such as to test or threaten the strength and performance of the barrier.
 - No reported or observed incidents or issues associated with boats, canoes or other watercraft. The barrier was required to be prominent with yellow coloured floats and navigation markers and beacons which would have assisted in this regard.

Reported Community Feedback: General positive acceptance of the barrier by regular, occasional beachgoers and new visitors to the beach. Finding from 499 survey responses:

- 94% felt the barrier provided them a safe swimming area and reduced the risk of a shark encounter;
- 78% of survey respondents indicated the barrier meant they were more likely to visit Coogee Beach as compared to beaches elsewhere.

Example 2 – Permanent Installation

20. Another option and example of the employment of a shark barrier can be found at the Dunsborough Beach, installed and maintained by the City of Busselton.
21. A report commissioned by the Department of Premier and Cabinet to review the trial revealed the following:
 - The Dunsborough beach enclosure was constructed by installing 6 permanent piles roughly parallel to the shoreline to which the barrier could subsequently be secured.
 - The barriers at Dunsborough beach fulfilled their requirements and with minor adjustments maintained a complete beach barrier.
 - The barrier did get fouled by longshore movement of wrack (detached seagrass fronds) and required frequent attention to remove the detritus. Bio-fouling occurred but did not hinder the performance of the barrier and no by-catch was recorded.
 - The ability to relatively easily remove and deploy the barrier (minor cost) mitigates the longer-term bio-fouling risk.
 - The barrier can be removed during the lower beach use/storm season (winter) and land based cleaning can be employed to reduce cost.

- Reported Community Feedback: The findings were:
 - a limited regular user survey indicated that overall beachgoers felt safer and more inclined to swim in the enclosure; and
 - the City of Busselton was positive and ongoing deployment of the beach enclosure or a similar structure was supported.
22. Noting that further options may be considered and public opinion and input is yet to be assessed, of the two examples (options), the City of Cockburn option to install a trial shark barrier appears an appropriate measured course of action.

GOVERNMENT & PUBLIC CONSULTATION

23. It is proposed that community consultation is undertaken (in conjunction with a feasibility study) prior to any decision being made, noting stakeholders such as the Albany Surf Life Saving Club who currently patrol Middleton Beach have not been consulted.
24. Approvals may be required to be granted from:
- a. The Department of Lands (permission to use crown land and meet the requirements of the Aboriginal Heritage Act);
 - b. The Department of Planning & Infrastructure;
 - c. The Department of Transport (permission and granting of a license for the structure to be placed in the marine environment);
 - d. The Department of Parks and Wildlife to install pylons on the sea bed;
 - e. Southern Ports Authority will need to assess the proposal and may require a lease arrangement where there is an impact on port controlled waters; and
 - f. Environmental Protection and Biodiversity Conservation Act considerations and approvals may also be required and need to be more fully investigated with consideration given to the time these approvals may take.

STATUTORY IMPLICATIONS

25. There are no statutory implications relations related to this report.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

Risk Category	Likelihood	Consequence	Risk Analysis	Mitigation
People Health & Safety: The integrity of the barrier could be compromised after an encounter with a large shark or storm, therefore exposing swimmers to shark attack.	Possible	Major	High	Work with stakeholder groups, community and consider appropriate resources to inspect the integrity of the structure in the feasibility.
Legal & Compliance: Failure to comply with conditions of insurance coverage, could expose the City of Albany to public liability litigation in the event of an injury/shark attack.	Possible	Major	High	Put in processes and assign appropriate compliance checks.
Community: Current community swimming activities may be disrupted or impacted by the installation of a shark barrier.	Possible	Moderate	Medium	Work with stakeholder groups in the feasibility and design phase.
Reputation: Regardless of course of action taken (to proceed or not to proceed) negative and positive public opinions will result.	Possible	Moderate	Medium	Conduct robust community and stakeholder consultation in conjunction with a feasibility study.
Financial: Uncertainty of capital and recurrent costs due to location suitability and product life.	Almost certain	Moderate	High	Conduct a thorough feasibility and coastal assessment to ensure suitability for this type of infrastructure is suitable. Conduct whole of life cost analysis.

FINANCIAL IMPLICATIONS

28. The estimated costs of the two examples are shown below.

City of Busselton	
Capital	Operational
\$150,000 infrastructure purchase and installation	\$50,000 annual maintenance
City of Cockburn	
Capital	Operational
\$255,000 to purchase infrastructure	\$70,000 annual maintenance
\$100,000 per annum <u>to lease</u>	\$30,000 annual maintenance including product cleaning, periodic inspections

29. The City would need to make allowance for any costs over and above the \$200,000 funding offered. In addition, the City needs to consider the recurrent costs associated with inspections and maintenance and make provision in future budgets.

30. Renewal/replacement cost implications have not been analysed at this stage. This would be undertaken as part of a thorough feasibility assessment.

31. The City may require expert assistance from a Coastal Engineer as part of the feasibility. In this case any consultant fees would be charged to existing accounts associated with ongoing strategic works being undertaken for Emu Point and Middleton Beach and if necessary be considered as part of the midyear budget review process.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

33. In the context of this proposal it is important to establish the difference between shark ‘barriers’ and shark nets used to capture and control sharks. The terminology ‘barrier nets’ or ‘beach enclosure’ refer to non-lethal/non shark-capture nets. The deployment of barrier nets to prevent the movement of sharks into bathing areas is a method for mitigating the risk of shark attack and provides peace-of-mind to beach goers who feel unsafe in this environment.
34. Given the results of both the City of Cockburn and the City of Busselton trials and the demonstration that there is minimal impact on the marine environment it is suggested at this initial stage that the environmental impact is minimal.
35. Based on experience of City of Busselton and City of Cockburn approval will be required by the Department of Parks & Wildlife relating to installation of pylons on the sea floor.
36. The issue of “Bio Fouling” at the Middleton Beach location will require serious consideration.

ALTERNATE OPTIONS

37. Council can chose to not pursue this initiative and decline the offer of funding.

SUMMARY CONCLUSION

38. The City of Albany has been offered funding to install a shark barrier at Middleton Beach. While some preliminary investigation indicates the proposal is feasible, the City has not had the opportunity to assess the feasibility in detail or consult with the community. In addition Council will need to consider whether it wants to make any financial commitment. This report recommends that a detailed feasibility be undertaken prior to any commitment being made with respect to the installation.

Consulted References	:	• <i>Review of the Dunsborough Beach Enclosure Trial, Hydrobiology 2014</i>
File Number (Name of Ward)	:	Frederickstown Ward & Breaksea Ward
Previous Reference	:	Nil

14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL
15. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

15.1: NOTICE OF MOTION BY COUNCILLOR HORTIN
VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Council:

- (1) ACCEPT this Notice of Motion as urgent business; and**
- (2) RECONSIDER the Responsible Officer Report and Recommendation titled “WS078: Underground Power Program, Localised Enhancement Projects-Albany Highway, York Street to Sanford Road” presented at the Ordinary Council Meeting held on 28 July 2015.**

Councillor’s Reason:

The subject report was not considered by the Works and Services Committee as no meeting was held in July due to a lack of quorum.

The Responsible Officer Recommendation regarding WS078 was lost 6-2 at the Ordinary Council Meeting held on 24 July 2015; as it did not achieve absolute majority.

WS078: RESOLUTION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR HORTIN
SECONDED: COUNCILLOR HOLLINGWORTH

THAT Council:

1. *AUTHORISE expenditure of up to \$1,100,000 and ACCEPT the funding offer of \$500,000 from the Underground Power Program, Local Enhancement Projects for the provision of underground power on Albany Highway between Sanford Road and York Street, Albany.*
2. *AGREE to the raising a loan up to the value of \$600,000 specific to the project as detailed in this report, subject to compliance with Clause 6.20 of the Local Government Act 1995;*

NOTE that consideration will be given to the imposing of an appropriate service charge to recover project cost, in part, prior to the 2016/2017 financial year and REQUEST that the Executive Director of Works and Services provide a report providing detailed options for consideration.

LOST 6-2
DID NOT ACHIEVE ABSOLUTE MAJORITY

Record of Vote: Against the Motion: Councillors Goode and Gregson

I believe that in fairness to the absent Councillors and the proposal itself, the Recommendation needs to be brought forward in August so that all Councillors have an opportunity to discuss and vote for or against this proposal.

This Underground Power Program is an opportunity to enhance the main entry to the City of Albany by removing overhead power lines. The offer of subsidised funding may not be available again for some time, if at all.

Borrowed funds for the contribution required of the City are unlikely to remain at such low Interest rates in the foreseeable future. Unless this development is undertaken within the constraints of the current Program, it could be many years before the opportunity presents itself again. The final sealing of the shared pedestrian/cycleway awaits the outcome of this matter.

I commend the Responsible Officer Recommendation to Council in conjunction with this Notice of Motion.

Officer Comment (S Jamieson):

- Regulation 10 (1a), of *Local Government (Administration) Regulations* requires the notice to be signed by 1/3 of the number of offices (whether vacant or not) of members of the Council. The Revocation Form has been received by the City, signed by five elected members.
- Full report follows.

WS078: UNDERGROUND POWER PROGRAM, LOCALISED ENHANCEMENT PROJECTS – ALBANY HIGHWAY, YORK STREET TO SANFORD ROAD

File Number (Name of Ward)	: ET.COG.1 (Frederickstown)
Land Description	: Albany Highway – York Street to Sanford Road
Maps and Diagrams	: Locality plan : Design drawing : Artist impressions
Reporting Officer(s)	: Executive Director Works and Services (M Thomson)
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 2014-2018:
 - 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:

- The City is invited to take part in the State Government's Underground Power Program (Localised Enhancement Projects, Round Five) to replace overhead power lines with underground systems on Albany Highway, from York Street to Sanford Road.
- This project has undergone a lengthy development and consultation phase culminating in the provision of a design and cost estimate. Various funding options are possible to recoup the costs during the 2016/17 budget process for consideration by Council.
- Council endorsement is sought for the project to proceed, with authorisation given to the CEO and Mayor to execute relevant project agreement documentation.

RECOMMENDATION

WS078: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

THAT Council:

- (1) AUTHORISE expenditure of up to \$1,100,000 and ACCEPT the funding offer of \$500,000 from the Underground Power Program, Local Enhancement Projects for the provision of underground power on Albany Highway between Sanford Road and York Street, Albany.**
- (2) AGREE to the raising a loan up to the value of \$600,000 specific to the project as detailed in this report, subject to compliance with Clause 6.20 of the *Local Government Act 1995*;**

NOTE that consideration will be given to the imposing of an appropriate service charge to recover project cost, in part, prior to the 2016/2017 financial year and REQUEST that the Executive Director of Works and Services provide a report providing detailed options for consideration.

BACKGROUND

2. The Underground Power Program is an initiative by the State Government, administered by the Office of Energy. The program was established in 1996 to improve the standard of electricity supply by addressing the reliability issues in areas with existing overhead power lines. The program offers two types of projects; Major Residential Projects which involve suburban areas, and Localised Enhancement Projects which aim to beautify urban gateways, scenic routes and tourism/heritage centres.
3. Power lines are currently underground at the intersections of Albany Highway/York Street and Albany Highway/Sanford Road, by converting the overhead lines to underground power in this location the gap between these two intersections will be closed.
4. The approximate distance of this project is 500m consisting of around 40 property connections, including a minimal amount of residential properties (see attached design drawings).
5. Funding arrangements are based on 50% from the State Government (up to a maximum of \$500,000) and 50% from the Local Government.
6. In November 2010, the City considered an internal project proposal under this scheme and resolved the following:
 - a. *“That Council adopt the proposal to convert existing overhead power lines to underground systems across Albany.*
 - b. *The Council accept Albany Highway, from York Street to Sanford Road, as the first stage to be completed*
 - c. *Council commit to raising the funds for this first stage from the general rate base to a minimum of 25% of the total project value to the project.*
 - d. *That Council include a provision for adjoining property owners to make a contribution of a maximum of 25% of the total project value to the project.*

- e. *Council advise staff to proceed with community consultation and complete an expression of interest for round five of the Localised Enhancement projects of the Underground Power Program which will be called later this year*
 - f. *Council agreed to payment of the non-refundable deposit of \$5,000 if the expression of interest is short-listed.”*
7. An Expression of Interest was submitted in November 2011 when the State Underground Power Program – Localised Enhancement Project (Round 5) opened. The City was notified in October 2012 that it was successful and a non-refundable deposit of \$5,000 was paid prior to the start of the detailed proposal stage being assessed.
 8. Western Power has been liaising with staff since 2012, providing updates of the project design. The City has recently been provided with a cost estimate (ex GST) for the works totalling \$1.1million (\$500,000 State Government contribution, \$600,000 City of Albany).
 9. Two rounds of community consultation have been undertaken for the project and this revealed support for the project but a reluctance to contribute to the capital cost.

DISCUSSION

10. The project has undergone a lengthy development process culminating in a cost estimate (\$1.1million) being provided and a request through Western Power to confirm if Council wished to proceed. Given the cost and the timing issues associated with the development of the project, the impetus had lost considerable momentum and warrant for the project to proceed at this time had become questionable.
11. It was therefore considered prudent to undertake further consultation prior to Council giving consideration to either accept or decline the offer of funding.
12. The main issues which the City required feedback on from the consultation were:
 - a. Whether there is support or otherwise for the project;
 - b. Whether an appetite exists for adjacent landowner to contribute to the project, if it was to ensure that it would proceed.
13. The City of Albany wrote to affected landowners and called a public meeting in June 2015. Each landowner was provided (in writing) some indication of what the possible contribution requirements may be. The contribution was calculated based on recovery of \$300,000 proportional to the street frontage of the property.
14. A public meeting was held on the 8th June 2015. Those who attended this meeting were provided with an explanation of the project. Some artist's impressions were shown (attached) which gave a representation of how the streetscape may look should the project proceed.
15. The general comments made at the meeting were around the following themes:
 - a. Very strong in principle support for the project to move ahead and that the City should be mindful not to pass up the opportunity for the funding;
 - b. General (but by no means representative) support from those who attended who had an interest in commercial property in making a contribution to the project;
 - c. General lack of support from residential properties in making a contribution to the project;

- d. There had been an alleged precedent (Lockyer Avenue) where landowners were not required to make a contribution to underground power projects, similarly there have been other precedences (Middleton Road) where there had. The officer notes that this has been confirmed to be correct however there were other complicating circumstances around this particular project which made it difficult to make a direct comparison. In particular, there were a range of negotiations which took place with landowners as part of a much larger project.
 - e. There had also been a precedent in Albany where landowners were required to contribute to underground power, in particular Middleton Beach Road.
 - f. It was noted and acknowledged from those present that commercial properties potentially have more to benefit than residential and it was therefore seen as possibly inequitable for residential properties to make contribution.
 - g. There were comments that the charges were seen as high and that if they could be lowered that there would be some interest.
 - h. Attendees encouraged the City of Albany to take up the offer and proceed with the project;
 - i. The project benefits the whole of Albany, and more in particular the Central Business District and not just those who are directly impacted by the works.
16. It was concluded from the consultation that:
- a. The affected residents see the project as a great opportunity that benefits the whole of the Central Business District not just the affected area;
 - b. Imposing a charge to residential properties is likely to be resisted.
 - c. Imposing a charge to commercial properties will meet with resistance; however, there are a number of property owners who indicated their acceptance to a charge if imposed.

GOVERNMENT & PUBLIC CONSULTATION

17. Two rounds of public consultation have been undertaken on the proposed project. Firstly in 2011 during the initial project proposal, where at that time of the 27 landowners contacted (some owning multiple properties) 9 were in support and 4 were not, with 14 not responding at all.
18. Secondly a consultation effort was undertaken during June 2015. A public meeting was held with 14 adjacent landowners and City of Albany officers in attendance. There were very few writing responses received 4 in total, 2 in support for the project, 2 not in support of the project and one of the responses indicated a willingness to make a contribution.

STATUTORY IMPLICATIONS

19. Division 5 and 6, Part 6 of the *Local Government 1995*, deals with the imposition, setting and public advertising of fees and charges. If a service charge is imposed on owners within a defined part of the district for prescribed work/service in relation to the land, the money is to be used within the financial year it is imposed, or placed in a reserve account created for the purpose.

POLICY IMPLICATIONS

20. Council's Policy – Long Term Borrowing applies to this item. This policy provides for the prudent use of loan borrowings for the acquisition of City assets.
21. As the recommendation commits Council to expenditure the voting requirement is **ABSOLUTE MAJORITY**.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Property, Environment, Community, Reputation, and Financial: <i>If the project is not pursued, an opportunity to improve the visual amenity, mitigate vulnerability to storm damage, infrastructure upgrade and funding will be missed.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Proceed with project.</i>
Operations and Financial: <i>The City's Long Term Financial Plan may be compromised, if a service charge is <u>not</u> imposed.</i>	<i>Possible</i>	<i>Major</i>	<i>High</i>	<i>Impose a service charge or develop an alternate contribution model, take out a loan.</i>
Reputation: <i>Landowners who do not support the project may provide negative feedback, in respect to the imposition of a service charge.</i>	<i>Likely</i>	<i>Major</i>	<i>High</i>	<i>Develop a legitimate equitable contribution arrangement. Publically communicate rationale.</i>

FINANCIAL IMPLICATIONS

23. The project estimate of the proposed location on Albany Highway is \$1.1 million. This would consist of the following funding arrangements:
 - State Government funding: \$500,000
 - City of Albany: \$600,000
24. In accordance with the November 2010 resolution of Council it was committed to fund (minimum) 25% of the cost from general revenue income, and (up to) 25% contributed by adjoining property owners by way of a service charge.

Options for Cost Recovery - Service Charge.

25. Should the Council wish to proceed with the project any costs recovered through landowners would need to be through a Service Charge.
26. A "Service Charge" is the only legitimate mechanism to recover the costs (either wholly or in part) of the project.
27. The Local Government Act (1995) enables the Local Government to apply a service charge for specific works, services or facilities. Provision of underground electricity is one of the prescribed works listed in the Act.

28. Under a service charge arrangement, and given the feedback during the public meeting of June 2015, there exists a number of possible models which Council will be required to consider in future, if the project progresses:
 - a. Recover 25% of the total project cost applying to each property which has a frontage to the proposed works (in accordance with Council resolution of November 2010) The City can offer a one off payment, 6 year or 10 year repayment options.
 - b. Fully subsidise the contribution from residential properties affected and recover cost from commercial properties. This will result in less cost being recovered, somewhere in the order of 20% (approx \$240,000).
 - c. Recover 15% or any amount specified by Council and increase the general rate base to cover the additional costs.
29. Under option (a) above, for reference, indicative charges would be as follows (depending on road frontage):
 - a. One off payment ranging from \$1,100 to \$38,600;
 - b. City raises a 6 year loan payments (per annum) would range from \$200 to \$7,100.
 - c. City raises a 10 year loan, payment (per annum) would range from \$130 to \$4,000.
30. Should Council agree to a service charge, it must give local public notice of its intention to do so, and the date from which it is proposed the fees or charges will be imposed.
31. In any case, the City will need to raise a loan of up to \$600,000 to cover the costs required for the project to proceed. And costs can be recovered retrospectively.

LEGAL IMPLICATIONS

32. Should the City agree to the imposition of a service charge, at a future time, compliance with the specific provisions of the Local Government Act 1995, including Division 5 and 6, Part 6 of the *Local Government 1995*, which deals with the imposition, setting and public advertising of fees and charges would apply.
33. Clause 6.20 of the Local Government Act 1995 allows a local government to borrow money. Where this power is exercised and the details of the proposal have not been included in the annual budget, the local government must give one month's public notice of the proposal and the resolution to exercise that power must be by absolute majority.
34. Clause 6.21(2) states that when a local government borrows money, it may only be secured by giving security over the general funds of the local government.

ENVIRONMENTAL CONSIDERATIONS

35. The introduction of underground power for Albany Highway, York Street to Sanford Road may enable the planting of street trees providing environmental benefits to the City and improvements in visual amenity with the removal of overhead powerlines.

ALTERNATE OPTIONS

36. Council may wish to not proceed with the project and therefore decline the funding offer from Western Power.

SUMMARY CONCLUSION

37. The Localised Enhancement Project for the undergrounding of power and provision of street lighting for Albany Highway, York Street to Sanford Road is an opportunity to improve the overall streetscape and amenity at the entrance to the Central Business District.
38. This report recommends that the project proceed, funded through the raising of a loan, and that the City consider options for partial cost recovery through a service charge applied affected properties prior to the 2016/2017 financial year.

Consulted References	:	<i>Local Government 1995</i>
File Number (Name of Ward)	:	ET.COG.1 (Frederickstown)
Previous Reference	:	OCM 16.11.10 ITEM 3.3

16. **REPORTS OF CITY OFFICERS: Nil**
17. **MEETING CLOSED TO PUBLIC.**
18. **CLOSURE.**