

MINUTES

Ordinary Meeting of Council

Tuesday 26 May 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.

ORDINARY COUNCIL MEETING
MINUTES –26/05/2015

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1. DECLARATION OF OPENING

[6:00:07 PM](#) The Mayor declared the meeting open.

2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

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

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

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

3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

Mayor	Mayor D Wellington
Councillors:	
Breaksea Ward	V Calleja JP
Breaksea Ward	R Hammond (Leave of Absence)
Frederickstown Ward	G Stocks (Leave of Absence)
Kalgan Ward	J Price
Kalgan Ward	B Hollingworth
Vancouver Ward	S Bowles
Vancouver Ward	N Mulcahy (Williams)
West Ward	A Goode JP
West Ward	G Gregson
Yakamia Ward	R Sutton
Staff:	
Chief Executive Officer	G Foster
Deputy Chief Executive Officer	G Adams
Executive Director Planning and Development Services	D Putland
Executive Director Community Services	C Woods
Executive Director Works and Services	M Thomson
General Manager-Business & Economic	D Lee
Meeting Secretary	J Williamson
Apologies:	
Frederickstown Ward	C Dowling (Apology)
Yakamia Ward	A Hortin JP (Apology)

Two Members of the media and approximately 20 members of the public were in attendance.

4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest
Councillor Hammond	CSF167	Impartiality. Councillor Hammond is the owner of a business (Primo Analytical Pty Ltd) which is a service provider of an entity referred to in discussion notes concerning Proudlove Parade. Councillor Hammond remained in the Chamber and participated in the discussion and vote.

5. REPORTS OF MEMBERS

[6:01:27 PM](#) Councillor Calleja

Summary of key points:

- Thanked staff for their attendance at the CMCA Rally in South Australia, at which they were promoting the upcoming CMCA Rally to be held in Albany in October 2015.

[6:02:12 PM](#) Councillor Hammond

Summary of key points:

- Attended Model Railway Association Inc display and supports efforts to ensure future of the Club.

[6:04:02 PM](#) Councillor Sutton

Summary of key points:

- Was disappointed in the delay in the handing down of the State Administrative Tribunal decision regarding 19 Premier Circle.
- Nine properties in the immediate vicinity have been sold while waiting for the decision.
- Supported the decision by metropolitan local governments to abolish kerbside pickup, and hoped that the City of Albany would follow suit.

[6:05:56 PM](#) Councillor Mulcahy

Summary of key points:

- Albany Domestic Violence Group.
- Attended Albany Urban Down Hill.

[6:07:46 PM](#) Councillor Stocks

Summary of key points:

- Summarised his attendance at the ANZAC commemorations in Gallipoli.

ORDINARY COUNCIL MEETING
MINUTES –26/05/2015

[6:12:17 PM](#) the Mayor presented a summary of his engagements on behalf of Council since the April Ordinary Council Meeting.

- Beyond the Playing Field with John Worsfold;
- Great Southern Zone of WALGA;
- Heart Week Launch;
- Special Council Meeting-Appointment of Chief Executive Officer;
- Regional State Council Meeting;
- Meeting with Professor Neal Ryan;
- GSSTA Sundowner Launch and Mike Stidwell Medal Presentation;
- Opening of Vancouver Street Festival;
- Opening of Sounness Park, Mount Barker;
- Dinner with Stephanie Buckland and Derryn Belford;
- City of Albany CEO, Mayor, Elected Members and Executive Management Team Business Luncheon with Ms Stephanie Buckland;
- Master Builders Presentations;
- Volunteer Week Sundowner;
- Post Budget Lunch with the Hon. Terry Redmond MLA;
- Community Funding and Event Sponsorship Assessment;
- Albany Model Railway Association-Formal Invite to the Club;
- Private Citizenship Ceremony;
- Urban Downhill Sponsors Function;
- US Submariners Memorial Service;
- Urban Downhill Presentations; and
- New Arts Meeting.

RESOLUTION

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR GREGSON

THAT the Mayor's Report be RECEIVED.

CARRIED 11-0

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

7. PUBLIC QUESTION TIME

6:14:50 PM Mr Keith Smith, 223 Rutherford Road, Torbay

- Addressed Council regarding Perkins Beach Brine Disposal. Mr Smith's questions were taken on notice by the Chief Executive Officer. Mr Smith's tabled address is detailed at Appendix A.

6:17:19 PM Ms Mandy Arnold, 28 Chester Pass Road, Yakamia

- Addressed Council regarding Perkins Beach Brine Disposal. Ms Arnold's questions were taken on notice by the Chief Executive Officer. Ms Arnold's tabled address is detailed at Appendix A.

The Mayor responded to Ms Arnold, stating that WaterCorp had undertaken to improve their community consultation procedures.

6:22:22 PM Mr Tony Harrison, Little Grove

- Addressed Council regarding Perkins Beach Brine Disposal.

6:26:57 PM Ms Rowena De Bonde, Coombes Road, Kronkup

- Perkins Beach Brine Disposal-on behalf of Save Perkins Beach Action Group. Ms De Bonde's questions were taken on notice by the Chief Executive Officer. Ms De Bonde's tabled address is detailed at Appendix A.

6:28:46 PM Mr Peter Pocock, Catalina Road, Albany

- Albany Model Railway
- 26 years in the same premises

6:29:40 PM Ms Joan Anderson, Leslie Street, Yakamia

- Representing Spectrum Theatre Group
- Proudlove Parade leases

6:30:34 PM There being no further speakers the Mayor declared Public Question Time Closed.

8. APPLICATIONS FOR LEAVE OF ABSENCE Nil.

9. PETITIONS AND DEPUTATIONS Nil

10. CONFIRMATION OF MINUTES

RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR BOWLES

SECONDED: COUNCILLOR HOLLINGWORTH

THAT the minutes of the Ordinary Council Meeting held on 28 April 2015, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 11-0

RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR MULCAHY

SECONDED: COUNCILLOR BOWLES

THAT the minutes of the Special Council Meeting held on 4 May 2015, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 11-0

11. PRESENTATIONS Nil.

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS Nil.

CSF164: FINANCIAL ACTIVITY STATEMENT – MARCH 2015

Proponent : City of Albany
Attachments : Financial Activity Statement
Report Prepared by : Financial Accountant (S Beech)
Responsible Officer : Deputy Chief Executive Officer (G Adams)

Responsible Officer's Signature:



RECOMMENDATION

CSF164: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR GREGSON

THAT Council RECEIVE the Financial Activity Statement for the period ending 31 March 2015.

CARRIED 11-0

CSF164: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR CALLEJA

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

CSF164: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council RECEIVE the Financial Activity Statement for the period ending 31 March 2015.

BACKGROUND

1. The Statement of Financial Activity for the period ending 31 March 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:
- (1) 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.
 - (2) 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.
 - (3) 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
 - (4) A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be –
 - (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - (b) recorded in the minutes of the meeting at which it is presented.

POLICY IMPLICATIONS

8. The City’s 2014/15 Annual Budget provides a set of parameters that guides the City’s financial practices.
9. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

FINANCIAL IMPLICATIONS

10. Expenditure for the period ending 31 March 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.

File Number (Name of Ward)	:	FM.FIR.2 - All Wards
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CSF165: LIST OF ACCOUNTS FOR PAYMENT – APRIL 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

CSF165: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR SUTTON

That Council receive the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 April 2015 totalling \$5,029,720.26.

CARRIED 11-0

CSF165: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR CALLEJA

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

CSF165: RESPONSIBLE OFFICER RECOMMENDATION

That Council receive the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 April 2015 totalling \$5,029,720.26.

BACKGROUND

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

DISCUSSION

2. The table below summarises the payments drawn from the municipal fund for the period ending 15 April 2015. Please see the Attachment to this report for further details.

Municipal Fund	
Trust	\$17,400.00
Credit Cards	\$37,430.71
Payroll	\$1,127,757.52
Cheques	\$107,118.69
Electronic Funds Transfer	\$3,740,013.34
TOTAL	<u>\$5,029,720.26</u>

3. As at 15 April 2015, the total outstanding creditors stands at \$898,480.84 and is made up as follows:-

Current	\$429,761.00
30 Days	\$429,560.04
60 Days	\$23,227.97
90 Days	\$15,931.83

TOTAL **\$898,480.84**

Cancelled cheques: 30480 – not required

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 April 2015 has been incurred in accordance with the 2014/2015 budget parameters.

FINANCIAL IMPLICATIONS

8. Expenditure for the period to 15 April 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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CSF166: 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

CSF166: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR BOWLES

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

CARRIED 11-0

CSF166: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR BOWLES

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

CSF166: RESPONSIBLE OFFICER RECOMMENDATION

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

CSF167: LEASES – PROUDLOVE PRECINCT

Land Description	:	<ul style="list-style-type: none">• Crown Reserve 42793 and being Lot 512 on Plan 58074 as detailed in Certificate of Title Volume LR3160 Folio 28• Crown Reserve 42792 and being Lot 1404 on Plan 218308 as detailed in Certificate of Title Volume LR3121 Folio 760• Albany Lots B42 and B44 and being whole of land in Certificate of Title Volume 1739 Folio 647
Proponent	:	City of Albany
Owner	:	City of Albany and Crown
Report Prepared by	:	Team Leader Property and Leasing (Tanya Catherall)
Responsible Officer	:	Deputy Chief Executive Officer (G Adams)

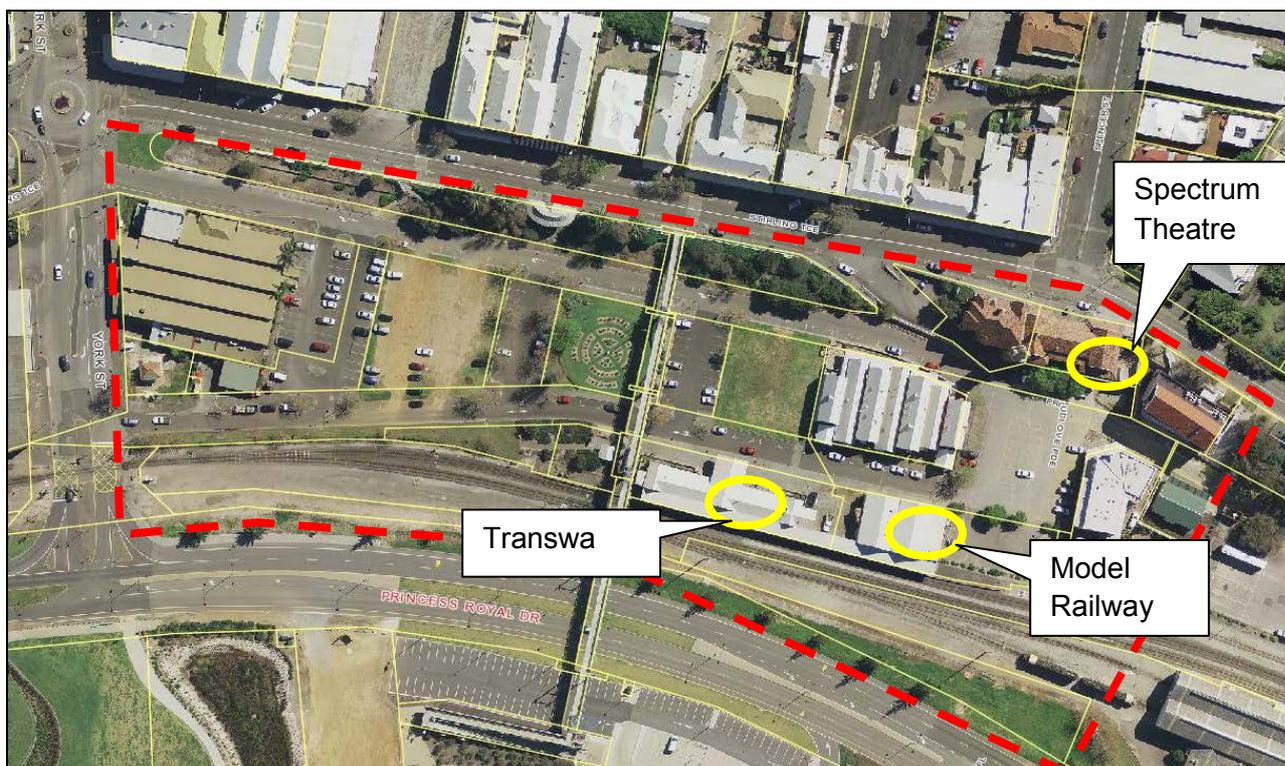
Responsible Officer's Signature:



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 endorse the holding over arrangements for the below leases pending determination of future use and management of the Proudlove Precinct.
 1. Transwa, located within the Railway Station on Crown Reserve 42793.
 2. Albany Model Railway, located within the Bond Store on Crown Reserve 42792.
 3. Spectrum Theatre, located within the Old Albany Post Office on City owned freehold land.
- It is proposed to provide lessees with no less than four (4) months notice regarding the end of the holding over arrangement and the City will endeavour to provide a longer period of notice, if possible.

RECOMMENDATION

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

CSF167: RESOLUTION

VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GOODE

SECONDED: COUNCILLOR GREGSON

THAT Council ENDORSES the following leases to remain on holding over arrangements pending determination of the future use and management of the Proudlove Precinct, subject to providing lessees with no less than ten (10) months notice regarding the end of the holding over arrangement.

1. Transwa.
2. Albany Model Railway Association Inc.
3. Spectrum Theatre Inc.

CARRIED 11-0

CSF167: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR BOWLES

SECONDED: COUNCILLOR GREGSON

THAT Council ENDORSES the following leases to remain on holding over arrangements pending determination of the future use and management of the Proudlove Precinct, subject to providing lessees with no less than ten (10) months notice regarding the end of the holding over arrangement.

4. Transwa.
5. Albany Model Railway Association Inc.
6. Spectrum Theatre Inc.

CARRIED 8-4

CSF167: AMENDMENT BY COUNCILLOR PRICE

MOVED: COUNCILLOR PRICE

SECONDED: COUNCILLOR HAMMOND

THAT the Responsible Officer Recommendation be AMENDED to read as follows:

THAT Council ENDORSES the following leases to remain on holding over arrangements pending determination of the future use and management of the Proudlove Precinct, subject to providing lessees with no less than **ten (10) months** notice regarding the end of the holding over arrangement.

1. Transwa.
2. Albany Model Railway Association Inc.
3. Spectrum Theatre Inc.

CARRIED 9-3

CSF167: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HORTIN

SECONDED: COUNCILLOR CALLEJA

THAT the Responsible Officer Recommendation be ADOPTED.

CSF167: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ENDORSES the following leases to remain on holding over arrangements pending determination of the future use and management of the Proudlove Precinct, subject to providing lessees with no less than four (4) months notice regarding the end of the holding over arrangement.

1. Transwa.
2. Albany Model Railway Association Inc.
3. Spectrum Theatre Inc.

BACKGROUND

Transwa

2. In September 1994, the then Town of Albany approved a sub-lease between the Albany Tourist Bureau Inc. and Westrail (now Transwa) for the purpose of ticketing office activities. The lease area of approximately 28m² returns a set nominal rental of \$10 plus GST per annum.
3. In July 2005 the City assumed management of the Albany Tourist Bureau and as such control of the lease with Westrail under the same terms and conditions, including rent.

4. Since the lease expiry on 29 June 2014, Transwa has remained at the property under holding over arrangements.
5. The remainder of the Railway Station is used as the Albany Visitor Centre. It is noted that the relocation of the Albany Visitor Centre to a more central and prominent location is being considered.
6. The Railway Station is located on Crown Reserve 42793.

Albany Model Railway Association Inc.

7. The Albany Model Railway Association has occupied part of the Bond Store under lease arrangements since July 2000. The lease area of approximately 209m² returns a rental being the equivalent of minimum rate set by Council each year, currently \$896 plus GST.
8. The Association has confirmed it will remain at the property on holding over arrangements, past the lease expiry on 30 June 2015.
9. The remainder of the Bond Store is being used for City storage of the art collection and library archives, although the library archives are in the process of vacating this space.
10. The Bond Store is located on Crown Reserve 42792.

Spectrum Theatre Inc.

11. Spectrum Theatre has occupied part of the Old Albany Post Office under lease arrangements since 1985. The lease area of approximately 255m² returns a rental being the equivalent of minimum rate set by Council each year, currently \$896 plus GST.
12. The City has confirmed with Spectrum Theatre that holding over arrangements will automatically apply beyond lease expiry on 31 July of this year.
13. The remainder of the Old Albany Post Office is leased to the University of Western Australia for a term of 20 years expiring 31 July 2021 for a peppercorn rent.
14. The Old Albany Post Office is located on City owned land in freehold title.

DISCUSSION

Proudlove Precinct

15. In response to ongoing discussions regarding the expansion of tertiary opportunities in the City and the need to stimulate and redevelop under-used areas of the Central Business District, the City has been reviewing opportunities within the Proudlove Precinct.
16. Discussions have been held with key representatives of the University of Western Australia on the potential for their uptake of buildings and land in the Proudlove Precinct.

17. These considerations also relate to the proposed relocation of the Albany Visitors Centre to a more central and prominent location and the potential impact this may have on other uses within the Railway Station and Bond Store. The City is awaiting the outcome of funding applications to undertake the proposed relocation.
18. A preliminary concept plan for the future redevelopment of the Proudlove Precinct has been prepared and was presented to Council at the Strategic Workshop held on 17 February 2015. While no formal resolution of Council has occurred, there was general support for the concept plan and for ongoing discussions to occur.

Leases

19. The Proudlove Precinct is being considered for redevelopment in order to achieve the best use of centrally located land, however these considerations are only in the early stages. To allow time for further planning and engagement processes, the leases located within the Proudlove Precinct have not been renewed upon expiry. This maintains a greater level of flexibility and opportunity for the future improvement of this Precinct.
20. The lessees continue to occupy the property on a holding over basis as a tenant from month to month in accordance with the terms of the Lease. The terms and conditions during the holding over period are the same as under the existing lease, except in respect of the lease term. All lessees are obliged to meet all of the lease terms unless otherwise agreed.
21. The holding over basis allows for termination by one month's notice by either party. The City has agreed to provide no less than four (4) months notice regarding the end of the holding over arrangements and will endeavour to provide a longer period of notice, if possible.
22. It is noted that both Transwa and Albany Model Railway Association have signed correspondence acknowledging their holding over arrangements. These arrangements acknowledge that the City will give at least three months notice. City staff have recently met with Spectrum Theatre and anticipate receiving similar signed correspondence shortly, however, they requested at least four months notice.
23. It is anticipated that all leases will remain on holding over pending Council's decision on the future of the Proudlove Precinct. It is further noted that in the planning considerations for the Proudlove Precinct, possible options and opportunities for these lessees are being considered.
24. It is envisaged there will be no impact on the current lease with UWA.

GOVERNMENT & PUBLIC CONSULTATION

25. No Government consultation for leases on holding over is required. Should Council consider renewing the leases in the future, then Minister for Lands consent will be sought for those occupying Crown land.
26. No public consultation for leases on holding over is required. Should Council consider renewing the leases in the future, then advertising requirements in accordance with Section 3.58 of the *Local Government Act 1995* will be carried out.

STATUTORY IMPLICATIONS

27. There are no statutory implications related to this report.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Rating	Mitigation
<i>Organisations Operations Council renews leases prior to future of the precinct being determined – potential planning constraints</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Endorse recommendation to continue leases on holding over basis.</i>
<i>Reputation Council terminates leases</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Seek to negotiate terms to Council satisfaction. Consider relocation assistance. Ensure open communication with lessees.</i>

FINANCIAL IMPLICATIONS

30. There are no financial implications associated with lease holding over arrangements. Lessees are obliged to meet all of the terms and conditions of the existing lease during the holding over period including payment of rent.

LEGAL IMPLICATIONS

31. Lease holding over arrangements are in accordance with the terms and conditions of the existing leases.

ENVIRONMENTAL CONSIDERATIONS

32. There are no environmental considerations.

ALTERNATE OPTIONS

33. Council may:
- a. Continue existing lease holding over arrangements;
 - b. Decide to terminate lease holding over arrangements; or
 - c. Consider renewing the leases.

34. Should Council seek to renew the leases this may limit potential tertiary education expansion and redevelopment opportunities within the Proudlove Precinct.

35. Should Council seek to terminate the lease holding arrangements, notice will be given to vacate and make good the property. Transwa, Albany Model Railway Association and Spectrum Theatre will need to find alternative locations if they wish to continue providing similar services and activities. Council may consider some sort of assistance with relocation.

SUMMARY CONCLUSION

36. The City is reviewing opportunities within the Proudlove Precinct to facilitate potential expansion of tertiary services and better use of Central Business District areas.
37. To allow further time for planning and community engagement processes, the current leases within the Proudlove Precinct to Transwa, Albany Model Railway Association and Spectrum Theatre are not being renewed on expiry.
38. The lessees continue to occupy property within the Proudlove Precinct on holding over arrangements in accordance with the terms and conditions of the existing leases.
39. It is recommended that Council endorses the lease holding over arrangements within the Proudlove Precinct.

Consulted References	:	<ul style="list-style-type: none"> • Council Policy – Property Management – Leases and Licences • <i>Local Government Act 1995</i>
File Number (Name of Ward)	:	PRO078 (A157843) ,PRO095 (A140428) & PRO273 (A140446) (Fredrickstown Ward)
Previous Reference	:	Nil

CSF168: FINANCIAL ASSISTANCE GRANTS PROGRAM

Proponent : City of Albany
Report Prepared by : Manager Finance (D Olde)
Responsible Officer : Deputy CEO (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:** 5.1.1 Implement systems and controls that ensure the prudent use of rates.

In Brief:

- Council is requested to acknowledge the importance of annual Financial Assistance Grants program.

RECOMMENDATION

CSF168: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR BOWLES

THAT Council:

- (1) Acknowledges the importance of federal funding through the Financial Assistance Grants program for the continued delivery of the City's services and infrastructure;
- (2) Acknowledges that Council will receive only \$3.875 million in 2014/15; and
- (3) Will continue to ensure that this federal funding, and other funding provided by the Federal Government under relevant grant programs, is appropriately identified as Commonwealth grant funding in Council publications, including annual reports.

CARRIED 11-0

CSF168: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON

SECONDED: COUNCILLOR BOWLES

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 9-3

CSF168: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

- (1) Acknowledges the importance of federal funding through the Financial Assistance Grants program for the continued delivery of the City's services and infrastructure;
- (2) Acknowledges that Council will receive only \$3.875 million in 2014/15; and
- (3) Will continue to ensure that this federal funding, and other funding provided by the Federal Government under relevant grant programs, is appropriately identified as Commonwealth grant funding in Council publications, including annual reports.

BACKGROUND

2. The Financial Assistance Grants program has been in place since 1974/75. The Federal government announced in the 2014 Federal budget that indexation will be frozen until 2017/18.

DISCUSSION

3. The Financial Assistance Grants program has been in place since 1974/75.
4. The City currently receives approximately \$3.8 million p.a. from the program.
5. The grant program is divided into two components – a road grant, and general purpose grant.
6. This grant program is one of the few grant schemes that is untied. That is, Council has a large amount of discretion to spend these funds as they see fit, via the Annual Budget process.
7. The City of Albany acknowledges the importance of this grant to program in the maintenance of the road network, and general service provision to the community.

FINANCIAL IMPLICATIONS

8. The freezing on indexation on Financial Assistance Grants will affect the City of Albany approximately \$60,000 - \$70,000 p.a. and that is approximately 0.25% increase in rates.

SUMMARY CONCLUSION

9. That Council publically acknowledge the importance of the Financial Assistance Grants program.

File Number (Name of Ward)	:	FM.FIR.2 – All wards.
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CSF169: COUNCIL REVIEW OF DELEGATIONS REGISTER

Proponent : City of Albany
Attachments : Delegations Register 2015
Report Prepared by : Manager Governance & Risk Management (S Jamieson)
Responsible Officer(s) : Deputy Chief Executive Officer (G. Adams)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2018:
 - a. **Key Theme:** 5. Civic Leadership.
 - b. **Strategic Objectives:** 5.1. To establish and maintain sound business and governance structures.
 - c. **Strategic Initiative:** Nil

In Brief:

- Council review and approve the Register of Delegations 2015.

RECOMMENDATION

CSF169: RESOLUTION
VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR HOLLINGWORTH

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

CARRIED 11-0
ABSOLUTE MAJORITY

CSF169: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

CSF169: RESPONSIBLE OFFICER RECOMMENDATION

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

BACKGROUND

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

DISCUSSION

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

GOVERNMENT AND PUBLIC CONSULTATION

9. Detailed in the discussion section of the report.

STATUTORY IMPLICATIONS

10. Detailed in the discussion section of the report.

Delegation to CEO

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

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

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

Delegation to Committees

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

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

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

Delegations to be reviewed every financial year

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

Appointment of authorised persons

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

Transfer of Authority Due to Absence

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

Proposed, Amended Delegations

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

POLICY IMPLICATIONS

18. Nil

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Legal & Compliance. Non compliance with the City’s statutory requirement to review the delegations every financial year.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Review and bring back to Council for adoption prior to 30 June 2015.</i>

FINANCIAL IMPLICATIONS

20. Nil.

LEGAL IMPLICATIONS

21. Refer to statutory implication section of report.

ENVIRONMENTAL CONSIDERATIONS

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

SUMMARY CONCLUSION

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

Consulted References	:	<i>Local Government Act 1995.</i> <i>Local Government: Operational Guidelines. Number 17 – January 2007 – Delegations.</i>
File Number (Name of Ward)	:	PE.AUT.1 (All Wards)
Previous Reference	:	OCM 24/03/2015 Report Item WS068 OCM 10/06/2014 Report Item CSF094

CSF170: LEGAL SETTLEMENT 63 BEAUFORT STREET YAKAMIA

Land Description : 63 Beaufort Street, YAKAMIA
Attachments : Confidential Briefing
Report Prepared by : Executive Director Works and Services. (Matt Thomson)
Responsible Officer : Deputy Chief Executive Officer (Garry Adams).

Responsible Officer's Signature:



CONFIDENTIAL REPORT

In accordance with section 5.23 (2)(b) of the *Local Government Act 1995*, this report will be dealt with as a confidential item, as it pertains to the personal affairs of a person.

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2013-2018:
 - a. **Key Theme:** 5. Civic Leadership.
 - b. **Strategic Objectives:** 5.1. To establish and maintain sound business and governance structures.
 - c. **Strategic Initiative:** Nil

In Brief:

- Over a number of years, there has been a legal dispute with respect to drainage issues and alleged flooding at 63 Beaufort Street, Yakamia.
- A settlement position has been reached and requires Council consideration.

As there were no questions from the floor regarding this item, Council did not move behind closed doors.

RECOMMENDATION

CSF170: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

Moved: Councillor Goode
Seconded: Councillor Gregson

THAT Council AGREE to the proposed settlement arrangement as set out in the attached confidential briefing note.

CARRIED 11-0

CSF170: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON
SECONDED: COUNCILLOR HORTIN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

CSF170: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council AGREE to the proposed settlement arrangement as set out in the attached confidential briefing note.

BACKGROUND

2. Legal proceedings have resulted from a protracted dispute in respect to alleged flooding at subject site (*as detailed in the confidential briefing note*).
3. The City's insurance broker Local Government Insurance Services (LGIS) appointed legal representation through DLA Piper (Perth).
4. The City, appointed legal representative and the plaintiff participated in mediation in the Supreme Court of Western Australia on 15 April 2015 where a settlement position was reached.

DISCUSSION

5. Advice in relation to the matter is provided in the attached confidential briefing note.
6. The advice includes a proposed settlement arrangement which will be progressed if agreed.

GOVERNMENT & PUBLIC CONSULTATION

7. No government consultation was conducted in relation to this report.

STATUTORY IMPLICATIONS

8. There are no specific statutory implications in relation to this matter.

POLICY IMPLICATIONS

9. Nil.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Legal and Compliance If settlement terms are not agreed, matter could proceed to trial</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Agree to the proposed settlement arrangements.</i>

FINANCIAL IMPLICATIONS

- 11. Financial implications are detailed in the attached briefing note. There is an existing capital budget line which makes provision for drainage improvements in the area.
- 12. No additional expenditure is necessary.

LEGAL IMPLICATIONS

- 13. As per the attached briefing note.

ENVIRONMENTAL CONSIDERATIONS

- 14. Not applicable.

ALTERNATE OPTIONS

- 15. No alternate options are proposed.
- 16. Note: Should the proposed settlement arrangements not be supported by Council, the City's appointed legal representative cannot settle the dispute on the City's behalf.

SUMMARY CONCLUSION

- 17. Mediation in the Supreme Court of Western Australia in respect to a long running dispute between the City of Albany and (then) landowner at the subject site has culminated in a settlement position.
- 18. It is recommended that the proposed settled arrangements are approved.

Consulted References	:	Local Government Act 1995
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	Nil.

WS073: ALBANY REGIONAL HOSPITAL PARKING SCHEME

Land Description : Albany Regional Hospital Precinct
Owner : City of Albany
Attachments : Albany Health Campus Parking Layout Plan “Scheme Plan”
Report Prepared by : Manager, City Engineering (D King)
Responsible Officer : 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:** 3. A connected built environment
 - b. **Strategic Objective:** 3.1 To advocate, plan and build friendly and connected communities.
 - c. **Strategic Initiative:** 3.1.1 Improve connectedness and traffic flows

In Brief:

- Prior to its public advertising and implementation, Council is required to adopt the parking scheme plan for the Albany Regional Hospital.

RECOMMENDATION

WS073: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR MULCAHY
SECONDED: COUNCILLOR BOWLES

THAT Council ADOPT the proposed Parking Scheme, as amended, for the Albany Regional Hospital precinct.

CARRIED 10-1

Record of Vote

Against the Motion: Councillor Price

WS073: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GREGSON
SECONDED: MAYOR WELLINGTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 5-0

WS073: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council ADOPT the proposed Parking Scheme, as amended, for the Albany Regional Hospital precinct.

BACKGROUND

2. This matter was considered at the Ordinary Council Meeting (OCM) on the 24th March 2015.
3. Indiscriminate parking has been occurring since the completion of the Albany Regional Hospital (ARH).
4. This has created issues within the hospital precinct with respect to traffic and waste collection services. These issues have been sufficient to warrant the City of Albany to initiate a parking scheme to enable parking restrictions to be enforced and better manage the situation.
5. At the OCM Council adopted the Works and Services Committee recommendation as follows:
THAT Council:

(1) *APPROVE, in principal, the proposed Parking Scheme for the Albany Regional Hospital precinct, and*

(2) *RESOLVE to action a public consultation period prior to a further item being presented to Council for consideration.*
6. Since consideration by Council at the March OCM, minor amendments resulting from consultation have been made to the parking scheme plan. The amended plan is attached.

DISCUSSION

7. In accordance with the Council resolution, the City has undertaken public consultation in relation to the parking scheme proposal.
8. The attached parking scheme reflects feedback provided during the consultation period.
9. The only notable amendment from the original parking scheme plan is that a time limit would be placed on the no standing area on Andrews Street (6am – 10am) which would enable visitor parking to occur outside these times.

GOVERNMENT & PUBLIC CONSULTATION

10. A survey was distributed to 36 adjacent property owners and residents on 25 March 2015 with 11 surveys returned to the City. Safety was the main concern of those who responded. A site meeting was also held on 13 April 2015 with the following actions agreed to:
 - No Standing between 6am-10am would be installed from 4 Andrews Street to the intersection at Warden Avenue (as mentioned above).
 - No Standing on Verge signs would be installed along Warden Avenue (both sides).

- The City would continue to monitor the situation and meet residents again if problems persisted.
11. Discussions with the ARH have been fruitful with commitment to review its staff parking arrangements to maximise usage within ARH controlled land.

STATUTORY IMPLICATIONS

12. Clause 1.8 of the City’s Parking and Parking Facilities Amendment Local Law 2012 stipulates inter alia:
- a. *“The local government may, by resolution, prohibit or regulate by signs or otherwise, the stopping or parking of any vehicle, any class of vehicles or any class of drivers in any part of the parking region but must do so consistently with the provisions of this Local Law.”*

POLICY IMPLICATIONS

13. There is no specific Council policy position, as verges are dealt with under Activities on Thoroughfares and Public Places Local Law 2011 and Verge Development Guidelines have been developed to administer verge development.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Community, People Health and Safety. <i>Indiscriminate parking on roads and verges.</i>	<i>Almost Certain</i>	<i>Moderate</i>	<i>High</i>	<i>Implement the parking scheme plan as proposed and provide enforcement as necessary.</i>

FINANCIAL IMPLICATIONS

15. The installation and maintenance of signage within ARH land will be ARH’s responsibility.
16. Signs installed on surrounding roads will be installed and maintained by the City of Albany from budgeted maintenance accounts.
17. Any fines resulting from enforcement would be retained by the City.

LEGAL IMPLICATIONS

18. The new scheme must be implemented in accordance with the City of Albany Parking and Parking Facilities Amendment Local Law 2012.
19. Once adopted by Council, public notice must be given prior to enforcement of new or amended parking limitations.
20. The ARH had provided written consent for the creation of a parking scheme which includes part of their land.

ENVIRONMENTAL CONSIDERATIONS

21. Implementation of appropriate parking measures will enable verges to sustain grass and vegetation cover reducing likelihood of soil erosion and improving visual amenity.

ALTERNATE OPTIONS

22. Council may resolve not to support the implementation of a parking scheme, and the current parking arrangements will remain.

SUMMARY CONCLUSION

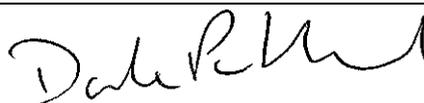
23. The City of Albany, in collaboration with the Albany Regional Hospital is proposing to implement a parking scheme which will improve ongoing parking issues within the hospital precinct. Public consultation has been undertaken in accordance with previous Council resolutions.
24. This report recommends that the parking scheme plan, as amended, be adopted.

Consulted References	:	Local Government Act 1995 Local Government (Functions and General) Regulations 1996 Access & Inclusion Plan 2012-2017 Parking & Parking Facilities Amendment Local Law 2012
File Number (Name of Ward)	:	CU.PRA.68 (Spencer Park)
Previous Reference	:	OCM 24 th March 2015

**PD080: CONSIDERATION 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. Site plans
2. Elevation Plans
3. Fire Management Plan
4. Guide to Bushfire Attack Level (BAL)
5. Letter OEPA
6. Vegetation associations and units map
Supplementary Information & Councillor Workstation: : Nil
Report Prepared by : Manager Planning Services (J van der Mescht)
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:

- Council is asked to consider proposals for the development of a Single House at lot 75 Range Road and a Single House at Lot 76 Range Road, Yakamia.
- The subject lots have been zoned 'Future Urban' since the 1970s.
- The Office of the Environmental Protection Agency (OEPA) provided advice that the sites have high conservation value that requires careful consideration before development approval.
- The proposed fire protection measures Building Protection Zone (BPZ) and Hazard Separation Zone (HSZ)) for the two houses would result in an unacceptable impact on the ecological communities, flora and fauna habitats, and local visual amenity.
- Staff recommend that Council approve the development of the two Single Houses, subject to conditions that will provide greater protection to the vegetation on the subject lots.

RECOMMENDATION

**PD080: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR GOODE**

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**).

Stormwater

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

Access

3. 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).
4. 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

5. The Building Protection and Hazard Separation Zones being implemented and maintained to a standard for BAL-40, to the satisfaction of the City of Albany.
6. The dwellings being constructed to the appropriate Australian Standard (3959) Construction of Buildings in Bushfire-prone Areas for BAL-40.

Location of Single Dwellings

7. 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

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

Covenant

9. A restrictive covenant being registered on the titles for Lots 75 and 76 Range Road for the protection and management of vegetation in accordance with Fire Management Plan, to the satisfaction of the City.

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.

CARRIED 11-0

PD080: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GOODE
SECONDED: COUNCILLOR SUTTON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 6-0

PD080: 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*).

Stormwater

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

Access

3. 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).
- 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

4. The Building Protection and Hazard Separation Zones being implemented and maintained to a standard for BAL-40, to the satisfaction of the City of Albany.
5. The dwellings being constructed to the appropriate Australian Standard (3959) Construction of Buildings in Bushfire-prone Areas for BAL-40.

Location of Single Dwellings

6. 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

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

Covenant

8. A restrictive covenant being registered on the titles for Lots 75 and 76 Range Road for the protection and management of vegetation in accordance with Fire Management Plan, to the satisfaction of the City.

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 AND DISCUSSION

What the applicant is requesting

9. An application has been received for the development of a Single House and associated Building Protection Zone (BPZ) and Hazard Separation Zone (HSZ) on Lot 75 Range Road, Yakamia and another Single House with BPZ and HSZ at Lot 76 Range Road, Yakamia. (An explanation of BPZ and HSZ is included in the “Policy Implications” section of this report)

Reason brought to council

10. The proposals are presented to Council for determination given the likely impact that the decision will have on the environmental interests identified on the subject lots and the potential implications for the draft *Yakamia/Lange Structure Plan*.

Site description

11. The subject lots are approximately 2km north-north-west of Albany town centre and have a combined area of 10.18 ha. Lot 75 has an area of 3.12 ha and Lot 76 has 7.06 ha. The land slopes upward from the south-east to north-west, rising from approximately 13m AHD to 36m AHD across Lot 75 and from 9m AHD to 49m AHD across Lot 76. In their current condition, the lots appear as a ‘forested escarpment’ when viewed from the south.
12. The subject lots are zoned ‘Future Urban’ under *Local Planning Scheme No. 1* (LPS1). The majority of the land surrounding the subject lots is also zoned ‘Future Urban’, including the lot to the west, on the opposite side of an unconstructed road reserve. The south-eastern corner of Lot 75 abuts a portion of land zoned ‘Yakamia Creek’, while a narrow strip of land reserved for ‘Parks and Recreation’ adjoins the south-eastern corner of Lot 76.
13. The subject lots are both within the draft *Yakamia/Lange Structure Plan* area.

Zoning/Land use issues

14. Clause 5.5.3 *Future Urban Zone* in LPS1 deals with development on land within the ‘Future Urban’ zone and sub-clause 5.5.3.1 states that the Local Government *may* approve a Single House, among other associated uses, on land within the ‘Future Urban’ zone.
15. Sub-clause 5.5.3.2 expands on this by stating that:

“Apart from Home Office, all land uses mentioned in clause 5.5.3.1 and any development requires the planning approval of the Local Government and no land use or development shall be permitted if, in the opinion of the Local Government, such use or development would adversely impact on the potential of the land for future urban purposes.”
16. Clause 4.2.3 *Future Urban Zone* in LPS1 sets out the objectives for the ‘Future Urban’ zone, which include the following:

“(a) Maintain viable uses for existing lots until the land is required to be developed for the desirable ultimate long term use;

- (c) *Maintain and enhance the physical characteristics of, environmental qualities and scenic qualities in the land;*
- (d) *Permit limited development which is in keeping with the existing character of the locality and compatible with the likely future use of the land for urban or other purposes as determined by the Local Government following the preparation of a Structure Plan.”*

17. Should Council determine not to approve the development of a Single House on each of the subject lots, the landowner could contend that the lots are, in effect, reserved and should be formally identified as such. If the City formally reserved the land through the Yakamia structure plan, the landowner would have grounds to lodge a claim for compensation.

Environmental Issues

18. Clause 5.3.3 in LPS1 states that *“the Local Government may require the protection of existing vegetation on a site as a condition of planning approval”* in a variety of circumstances, including the following:

“(a) Protect a vegetation community;

(d) Maintain local visual amenity and the natural setting;

(e) Protect habitat, or a threatened species;

(f) Assist to provide vegetated corridors to maintain fauna and flora linkages.”

19. The vegetation the subject lots was identified in the *Albany Regional Vegetation Survey (ARVS)* as being in very good to excellent condition and potentially restricted to the ARVS area. Of particular note is a vegetation unit consisting of three principal flora species; *Banksia Coccinea*, *Eucalyptus Staeri* and Sheoak. This unit of vegetation is listed by Department of Parks and Wildlife (DPaW) as a Priority 1 Ecological Community (PEC) due to the susceptibility of *Banksia Coccinea* to dieback disease. The draft *Yakamia/Lange Structure Plan* area contains a total of 10.5 ha of this type of vegetation unit.

20. The Office of the Environmental Protection Authority (OEPA) has already provided strong advice that the City should prepare the draft *Yakamia/Lange Structure Plan* in a way that it protects the vegetation on the subject lots from being cleared. In accordance with this advice, the draft *Yakamia/Lange Structure Plan* identifies these lots as ‘Vegetation protection’ areas. It should be noted that if this advice was applied to the development applications under consideration, it would prevent both lots from being developed. However, these applications must be assessed under the provisions of LPS1 and with specific advice from the OEPA and DPaW.

21. In view of this, staff referred the development applications to the OEPA for assessment and comment. The OEPA noted that the subject lots *“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 OEPA also 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”* and expressed a preference that any development is consistent with the draft *Yakamia/Lange Structure Plan*; that is to say that the vegetation is protected from clearing. Furthermore, the OEPA have advised that *“referral to the Commonwealth is likely to be required as the developments may have a significant impact on Matters of National Environmental Significance.*

Fire management issues

22. Clause 5.4 *Fire Protection Provisions* in LPS1 requires all planning proposals to incorporate appropriate fire protection measures, which may include “*incorporation of construction standards for buildings including those in AS 3959 – Construction of Buildings in Bushfire Prone Areas (as updated from time to time) and the Building Codes of Australia.*” Fire protection measures are also expected to be consistent with the methodology contained in the Western Australian Planning Commission’s *Planning for Bushfire Protection Guidelines*, or any document superseding it.
23. 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. An explanation of the methodology can be found in the “**POLICY IMPLICATIONS**” section of this report.
24. After receiving the applications, staff requested that the applicant provide a Fire Management Plan (FMP) for the lots, to satisfy the requirements of LPS1. The applicant subsequently provided an FMP that recommended BAL of 12.5, which would result in clearing of extensive amounts of vegetation. BAL 12.5 is also lower than what should be expected due to the slope of the land and the distance between the proposed developments and the type of vegetation. BAL 12.5 is the lowest BAL level provided for in the *Planning for Bushfire Protection Guidelines* and below BAL-40, as requested by the City Planning Staff.
25. The City requested that the FMP be changed to correct this anomaly and recommended that the HSZ be reduced and the BAL and associated construction standards be increased, to reduce the amount of clearing required.
26. A revised Fire Management Plan was submitted. However, it continued to recommend BAL-12.5 and the extensive amount of clearing that this level of construction would entail.
27. 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; for instance, where there is a significant environmental interest and the protection of vegetation is particularly important.

Options available to Council

28. In assessing these applications the matters detailed in this report have been taken into consideration. To progress these applications four options have been formulated. They are as follows:
 - a) **Option 1** – Approve the development of a Single House on each lot to the relevant construction standard for BAL-40, in order to reduce the amount of clearing required for Hazard Separation Zones.
 - b) **Option 2** – Refuse the applications on the grounds that the adverse impact on the environment and visual amenity are unacceptable. This option may lead to claims for compensation. Council may also consider purchasing these properties for the purposes of conservation.
 - c) **Option 3** – Refuse the applications on the grounds that the development would have an adverse impact on the potential of the land for future urban purposes. Should Council adopt this option, it should recommend that the draft *Yakamia/Lange Structure Plan* be modified to identify these areas as suitable for full urban development. However, this will lead to a possible EPA environmental review of the plan. This may require Council to undertake a formal environmental assessment as part of the structure plan process.

- d) **Option 4** – Approve the applications as it was submitted.

Staff reason for recommendation

29. Staff's preference is for Option 1, as it provides a balanced approach that will allow the development of a Single House on each lot, while reducing the amount of clearing necessary for development.

GOVERNMENT & PUBLIC CONSULTATION

30. The City has referred the 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

31. The subject lots are zoned 'Future Urban' under LPS1.
32. Clause 4.2.3 *Future Urban Zone* in LPS1 sets out the objectives for the 'Future Urban' zone.
33. Clause 5.5.3 *Future Urban Zone* in LPS1 deals with development on land within the 'Future Urban' zone. and sub-clause 5.5.3.1 states that the Local Government *may* approve a Single House, among other associated uses, on land within the 'Future Urban' zone.
34. Clause 5.3.3 in LPS1 states that "*the Local Government may require the protection of existing vegetation on a site as a condition of planning approval*" in a variety of circumstances, including the following:
- "(a) Protect a vegetation community;*
 - (d) Maintain local visual amenity and the natural setting;*
 - (c) Protect habitat, or a threatened species;*
 - (d) Assist to provide vegetated corridors to maintain fauna and flora linkages."*
35. Clause 5.4 *Fire Protection Provisions* in LPS1 requires all planning proposals to incorporate appropriate fire protection measures.
36. *Table 7: Site Requirements* in LPS1 require a minimum front setback of 20m and minimum side and rear setbacks of 10m for all development in the 'Future Urban' zone, in the absence of an adopted Structure Plan.
37. Clause 5.8.3 *Designated Building Envelope* in LPS1 states that "*the Local Government may require that all development and on-site effluent disposal systems be contained within a designated building envelope shown on an approved plan.*"

It further states that in determining the location and size of a building envelope, the Local Government shall apply various objectives including:

- "(a) Protection of remnant vegetation;*
- (d) Enhancement of visual amenity."*

38. Voting requirement **Simple Majority**

POLICY IMPLICATIONS

39. Fire protection measures should be consistent with the methodology contained in the Western Australian Planning Commission's *Planning for Bushfire Protection Guidelines*.
40. 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.
41. The starting point for this is a 20m wide cleared area around a dwelling, identified as a 'Building Protection Zone' or BPZ, which will have a fuel loading (understorey vegetation, leaf litter, etc.) of no more than two tons per hectare. Individual specimen trees are permitted within a BPZ if they stand at least two metres from a dwelling, their crowns are at least 10m apart and they are low pruned to a height of two metres.
42. Beyond this BPZ, a 'Hazard Separation Zone', or HSZ, is required. This is a parkland cleared area, where the understorey is slashed or mown, the crowns of trees are at least 10m apart and the fuel loading is maintained at between five and eight tons per hectare, although a fuel load of up to 15 tons per hectare may be permitted dependent on the type of vegetation present. As a minimum, a HSZ is expected to be 80m wide, if there are to be no implications on the construction of a dwelling. This will provide a combined 100m clearing around a dwelling.
43. 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

44. 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) against any conditions placed on the approval. For instance, the applicant may seek to have the level of construction required under AS 3959 reduced, which would require a larger Hazard Separation Zone to be cleared. This would, in turn, may be viewed by EPA as having a detrimental impact on the vegetation on the subject lots.</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.
<p>Community, Organisational Operations, Financial and Reputation If the applications are refused, in order to protect the vegetation, an appeal against the decision may be made to the SAT. The applicant may also seek compensation from the City.</p>	Likely	Severe	Extreme	Any decision based on proper planning grounds can be defended in SAT. The City may also enter into negotiations to purchase the land
<p>Organisational Operations, Financial If a decision is made that will result in the clearing of the vegetation and the <i>Yakamia/Lange Structure Plan</i> is modified to reflect this decision, the EPA may require the structure plan to go through a formal environmental review.</p>	Likely	Moderate	High	A decision to require the Yakamia Structure Plan to undergo a formal environmental review could be appealed, given the EPA's prior decision not to require a review following referral of the development applications for assessment and comment.

FINANCIAL IMPLICATIONS

45. There may be financial implications if a review of the decision or any conditions of approval is sought by the applicant through the SAT. However, these are unknown.

LEGAL IMPLICATIONS

46. An applicant aggrieved by a decision or a deemed refusal may apply for review to the SAT in accordance with Parts 252 and 253 of the *Planning and Development Act 2005*.

ENVIRONMENTAL CONSIDERATIONS

47. 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.

48. 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

49. Council has the following alternate options in relation to this item, which are:
- To refuse both applications, on the grounds that they will have an adverse impact on the environment and visual amenity;
 - To refuse both applications, on the grounds that the development would have an adverse impact on the potential use of the land for future urban purposes, with the option to further recommend that the draft *Yakamia/Lange Structure Plan* be modified to show these areas for full urban development; or
 - Approve the applications as submitted.

SUMMARY CONCLUSION

50. The proposals have been assessed against LPS1 and *Planning for Bushfire Protection Guidelines*.
51. In determining the applications it is necessary to consider the impacts on:
- Priority flora;
 - Habitat for threatened and endangered fauna;
 - Local visual amenity and the natural setting; and
 - Vegetated corridors that maintain fauna and flora linkages.

52. It is recommended that the applications are approved, subject to conditions that will require modification of the proposals, in order to provide protection to the vegetation on the subject lots.

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. Environmental Defenders Office Fact Sheet No.4 6. Draft Yakamia/Lange Structure Plan
File Number (Name of Ward)	:	A86521 and A86503 (Yakamia Ward)
Previous Reference	:	PD060: Endorse advertising for the draft Yakamia/Lange Structure Plan (25/11/2014).

PD081: PLANNING AND BUILDING REPORTS APRIL 2015

Proponent : City of Albany
Attachment : Planning and Building Reports April 2015
Report Prepared By : Administration Officer-Planning (K Smith)
Building Services Liaison Officer (J Corcoran)
Responsible Officer(s): : Executive Director Planning & Development Services
(D Putland)

Responsible Officer's Signature:



RECOMMENDATION

PD081: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR STOCKS
SECONDED: COUNCILLOR GREGSON

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

CARRIED 11-0

**LEMC006: RECEIVE THE MINUTES OF THE LOCAL EMERGENCY
MANAGEMENT COMMITTEE**

Proponent : City of Albany
Attachment : LEMC Minutes
Responsible Officer Executive Director Planning and Development (D Putland)

Responsible Officer(s):



RECOMMENDATION

LEMC006: RESOLUTION
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR GREGSON

THAT Council RECEIVE the confirmed minutes of the Local Emergency Management Committee meeting held on 9 February 2015.

CARRIED 11-0

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

CSF170: LEGAL SETTLEMENT: 63 BEAUFORT STREET, YAKAMIA

18. **CLOSURE.** [6:41:19 PM](#) There being no further business the Mayor declared the meeting closed.



Dennis W Wellington
MAYOR

TABLED DOCUMENTS

NAME	REFERENCE	FILE
Mr Keith Smith	Perkins Beach Action Group	GO.COM.3
Ms Mandy Arnold	Perkins Beach Action Group	GO.COM.3
Ms Rowena De Bonde	Perkins Beach Action Group	GO.COM.3

TABLED ADDRESS BY MR KEITH SMITH

Q 2. Keith

I am speaking to the recent successful action taken by community members regarding the Perkins Beach desalination waste disposal issue.

To begin with I would like to thank the Elected members, the City's Directors and CEO for allowing me the opportunity to raise the following points.

Items.

1. As part of the clearing that took place at Perkins Beach an area of coastal heath vegetation was cleared. Did council staff ensure Water Corp had appropriate approvals to clear this land as it appears some clearing is also on council reserve land?
2. Did Councils approval processes require any community consultation or information provision to community members and in particular any Roongar consultation/information provision.

As the area is amongst *Nuytsia floribunda* (Christmas trees) I am of the understanding that these trees are spiritually significant. If Council did not consult or inform these groups I request that Council provide clarity about why this did not occur and what will be done to rectify the damage caused.

3. Given the damage to this area through the installation of the truck dumping point what steps is Council putting in place to ensure this area is restored to natural vegetation and how this will be completed in consultation with local stakeholders?

(One possible option would be an activity in conjunction with "Water Corp" and used as a positive healing process with a local school and other stakeholders to bring some closure to this incident.)

4. I request that after Council has had the opportunity to investigate these points that a written response be provided to these items.

TABLED ADDRESS BY MS MANDY ARNOLD

City of Albany Questions

Re: Perkins Beach Desalination Waste Dumping.

Tuesday, 26 May 2015

Q 1.

I am speaking to the recent successful action taken by community members regarding the Perkins Beach desalination waste disposal issue.

To begin with I would like to thank the Elected members, the City's Directors and CEO for allowing me the opportunity to raise the following points.

As the City of Albany is the representative of Albany Residents and is meant to be the governing body that is closest to the people, it is disappointing that in this process the City's administration has completely failed to provide any information or consultation with not only the community but also it appears with the elected members of Council through the lack of action by the CEO.

1. Will Council please provide an explanation as to why Albany residents were not informed of this potential issue?
2. Will Council also please seek an explanation from the City's administration as to why the Elected members of Council were not informed of this issue?
3. Will Council please identify the timeline of actions by the City of Albany from when the City was first informed of this proposal through to today's date being 26 May 2015.
4. Will Council commit to forming a working group with local stakeholders to review and amend the City of Albany's Community Consultation and Engagement policies and procedures?
And,
if required develop new policy and procedures so that when future issues such as the Perkins Beach issue arises, appropriate and effective community consultation and information provision is assured.
5. I request that after Council has had the opportunity to investigate these points that a written response be provided to these items.

on behalf of as a member of
City of Albany
Catchment
Group
&
the
SPBAG

TABLED ADDRESS BY MS ROWENA DE BONDE

City of Albany Questions

Re: Perkins Beach Desalination Waste Dumping.

** On behalf of the save the
Perkins Beach action group*

Tuesday, 26 May 2015

Q 3.

I am speaking to the recent successful action taken by community members regarding the Perkins Beach desalination waste disposal issue.

To begin with I would like to thank the Elected members, the City's Directors and CEO for allowing me the opportunity to raise the following points.

I encourage Council to consider their broader position within this community as a leader and representative of the local community, its environment and local business.

1. Given the potential harm that the dumping of this waste could have caused and the potential that other coastal sites within the City of Albany may still be used as potential waste dump sites for desalination by product and other forms of possible waste.

I call on the City of Albany elected members to develop a policy that states:

That the City will not support any waste to be dumped in coastal areas or waterways and tributaries that lead to coastal areas within the Albany Local Government Area and will actively work with the community to prevent any such dumping from occurring.

2. I also call on the City of Albany to seek clarification from the WA Water Corporation that they will also not endeavour to dump any waste in coastal areas or tributaries that lead to coastal areas within the Albany Local Government Area.
3. I request that after Council has had the opportunity to investigate these points that ^a written response be provided to these items.