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# AGENDA

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Ordinary Meeting of Council

Tuesday 28 April 2020

6.00pm  
By Video Conference

ORDINARY COUNCIL MEETING  
AGENDA 28/04/2020  
CITY OF ALBANY  
COMMUNITY STRATEGIC PLAN (ALBANY 2023)



NOTICE OF AN ORDINARY COUNCIL MEETING

Dear Mayor and Councillors

The next Ordinary Meeting of the City of Albany will be held on Tuesday 28 April 2020 in the Council Chambers, 102 North Road, Yakamia commencing at 6.00pm.

Andrew Sharpe  
CHIEF EXECUTIVE OFFICER

ORDINARY COUNCIL MEETING  
AGENDA 28/04/2020

**TABLE OF CONTENTS**

Item	Details	Pg#
1.	DECLARATION OF OPENING	3
2.	PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS	3
3.	RECORD OF APOLOGIES AND LEAVE OF ABSENCE	3
4.	DISCLOSURES OF INTEREST	4
5.	REPORTS OF MEMBERS	4
6.	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	4
7.	PUBLIC QUESTION TIME	4
8.	APPLICATIONS FOR LEAVE OF ABSENCE	4
9.	PETITIONS AND DEPUTATIONS	4
10.	CONFIRMATION OF MINUTES	4
11.	PRESENTATIONS	4
12.	UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS	4
	<b>MINUTES AND RECOMMENDATIONS OF COMMITTEES</b>	
<b>CCS</b>	<b>Corporate and Community Services Committee</b>	
CCS238	FINANCIAL ACTIVITY STATEMENT-FEBRUARY 2020	5
CCS239	LIST OF ACCOUNTS FOR PAYMENT-MARCH 2020	7
CCS240	DELEGATED AUTHORITY REPORTS-MARCH 2020	9
CCS241	DEED OF VARIATION-LOCAL GOVERNMENT HOUSE TRUST	10
CCS242	QUARTERLY REPORT-TENDERS AWARDED-JANUARY TO MARCH 2020	14
<b>DIS</b>	<b>Development and Infrastructure Services Committee</b>	
DIS204	BIBBULMUN TRACK AND MUNDA BIDDI TRAIL-SOUTHERN TRAILS TERMINUS	15
DIS205	STRATA LOT 1, 256 COSY CORNER ROAD, KRONKUP-SHOP, CONSULTING ROOM AND SMALL BAR	20
DIS206	PLANNING AND BUILDING REPORTS MARCH 2020	32
DIS207	DESIGN AND CONSTRUCT GROUNDS MAINTENANCE SHED-This Report will be provided prior to the Ordinary Council Meeting	
DIS208	DOG EXERCISE AREA-EMU POINT WESTERN SWIMMING BEACH-This Report will be provided prior to the Ordinary Council Meeting	
14.	<b>NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF COUNCIL</b>	<b>33</b>
15.	<b>MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	
15.1	NOTICE OF MOTION BY COUNCILLOR SUTTON	33
16.	REPORTS OF CITY OFFICERS Nil	33
17.	MEETING CLOSED TO PUBLIC	
18.	CLOSURE	33

1. DECLARATION OF OPENING

2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

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

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

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

3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

Mayor

D Wellington

**Councillors:**

Breaksea Ward

R Hammond

Breaksea Ward

P Terry

Frederickstown Ward

R Stephens

Frederickstown Ward

G Stocks (Deputy Mayor)

Kalgan Ward

M Benson-Lidholm JP

Vancouver Ward

T Sleeman

Vancouver Ward

J Shanhun

West Ward

A Goode JP

West Ward

S Smith

Yakamia Ward

R Sutton

Yakamia Ward

C Thomson

**Staff:**

Chief Executive Officer

A Sharpe

A/Executive Director Corporate & Commercial Services

D Olde

Executive Director Infrastructure, Development  
& Environment

P Camins

Executive Director Community Services

S Kay

Meeting Secretary

J Williamson

**Apologies:**

Kalgan Ward

E Doughty (Leave of Absence)

ORDINARY COUNCIL MEETING  
AGENDA 28/04/2020

4. DISCLOSURES OF INTEREST

Name	Report Item Number	Nature of Interest
Mayor Wellington	CCS241	<b>Impartiality.</b> The nature of the interest being that Mayor Wellington is the Country Constituent Member of the Local Government House Trust.

5. REPORTS OF MEMBERS

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE Nil

7. PUBLIC QUESTION TIME

8. APPLICATIONS FOR LEAVE OF ABSENCE

9. PETITIONS AND DEPUTATIONS

10. CONFIRMATION OF MINUTES

**DRAFT MOTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the minutes of the Ordinary Council Meeting held on 24 March 2020, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

**DRAFT MOTION**

**VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the minutes of the Special Council Meeting held on Thursday 9 April 2020, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

11. PRESENTATIONS Nil

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

## **CCS238: FINANCIAL ACTIVITY STATEMENT – FEBRUARY 2020**

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

### **RECOMMENDATION**

#### **CCS238: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the Financial Activity Statement for the period ending 29 February 2020 be RECEIVED.**

#### **CCS238: COMMITTEE RECOMMENDATION**

MOVED: COUNCILLOR STEPHENS  
SECONDED: COUNCILLOR SLEEMAN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

#### **CCS238: RESPONSIBLE OFFICER RECOMMENDATION**

THAT the Financial Activity Statement for the period ending 29 February 2020 be RECEIVED.

### **COVID-19 IMPACT**

- This report is for the period ending 29 February 2020, prior to any significant community impact of COVID-19.

### **BACKGROUND**

1. The Statement of Financial Activity for the period ending 29 February has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Activity, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

### **DISCUSSION**

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

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

## **STATUTORY IMPLICATIONS**

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

## **POLICY IMPLICATIONS**

8. The City's 2019/20 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 29 February 2020 has been incurred in accordance with the 2019/20 proposed budget parameters.
11. Details of any budget variation in excess of \$100,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

<b>File Number (Name of Ward)</b>	FM.FIR.7 - All Wards
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**CCS239: LIST OF ACCOUNTS FOR PAYMENT – MARCH 2020**

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

**RECOMMENDATION**

**CCS239: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 March 2020 totalling \$8,286,635.66 be RECEIVED.**

**CCS239: COMMITTEE RECOMMENDATION**

MOVED: COUNCILLOR THOMSON  
 SECONDED: COUNCILLOR SMITH

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

**CCS239: RESPONSIBLE OFFICER RECOMMENDATION**

THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 March 2020 totalling \$8,286,635.66 be RECEIVED.

**COVID-19 IMPACT**

- COVID-19 has no direct impact on this report. The City continues to engage local suppliers where possible, and ensure speedy and timely payment of invoices.

**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 March 2020. Please refer to the Attachment to this report.

<b>Municipal Fund</b>	
Trust	\$0.00
Credit Cards	\$20,063.10
Payroll	\$1,571,179.08
Cheques	\$59,146.15
Electronic Funds Transfer	\$6,636,247.33
<b>TOTAL</b>	<b>\$8,286,635.66</b>

As at 15 March 2020, the total outstanding creditors stands at \$273,550.89 and is made up as follows:-

Current	\$252,058.47
30 Days	\$20,717.62
60 Days	\$0.00
90 Days	\$774.80
<b>TOTAL</b>	<b>\$273,550.89</b>
<b>Cancelled Cheques</b>	<b>Nil</b>



**STATUTORY IMPLICATIONS**

3. Regulation 12(1)(a) of the *Local Government (Financial Management) Regulations 1996*, provides that payment may only be made from the municipal fund or a trust fund if the Local Government has delegated this function to the Chief Executive Officer or alternatively authorises payment in advance.
4. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.
5. Regulation 13 of the *Local Government (Financial Management) Regulations 1996* provides that if the function of authorising payments is delegated to the Chief Executive Officer, then a list of payments must be presented to Council and recorded in the minutes.

**POLICY IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

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

**CONCLUSION**

8. That list of accounts have been authorised for payment under delegated authority.
9. It is requested that any questions on specific payments are submitted to the Executive Director Corporate Services by 4pm of the day prior to the scheduled meeting time. All answers to submitted questions will be provided at the Committee meeting. This allows a detailed response to be given to the Committee in a timely manner.

<b>File Number (Name of Ward)</b>	:	FM.FIR.2 - All Wards
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**CCS240: DELEGATED AUTHORITY REPORTS –FEBRUARY TO MARCH 2020**

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

**BACKGROUND:**

In compliance with Section 9.49A of the *Local Government Act 1995* and Part IV of the *Local Government (Functions and General) Regulations 1996* the attached report applies to the use of the Common Seal and the signing of documents under Council's Delegated Authority:

- Delegation: 006 - SIGN DOCUMENTS ON BEHALF OF THE CITY OF ALBANY (Chief Executive Officer)
- Delegation: 009 - GRANT FUNDING, DONATIONS, SPONSORSHIP
- Delegation: 018 - CHOICE OF TENDER, AWARD CONTRACT

**RECOMMENDATION**

**CCS240: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the Delegated Authority Reports 16 February 2020 to 15 March 2020 be RECEIVED.**

**CCS240: COMMITTEE RECOMMENDATION**

MOVED: COUNCILLOR BENSON-LIDHOLM  
SECONDED: COUNCILLOR THOMSON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

**CCS240: RESPONSIBLE OFFICER RECOMMENDATION**

THAT the Delegated Authority Reports 16 February 2020 to 15 March 2020 be RECEIVED.

**COVID-19 IMPACT**

- COVID-19 has no impact on this report.

## CCS241: DEED OF VARIATION – LOCAL GOVERNMENT HOUSE TRUST

<b>Proponent / Owner</b>	: Western Australian Local Government Association (WALGA)
<b>Business Entity Name</b>	: WALGA - Local Government House Trust
<b>Confidential Attachments</b>	: <ol style="list-style-type: none"><li>1. Deed of Variation – Local Government House Trust</li><li>2. Clause 12 of Trust Deed (Excerpt)</li><li>3. WALGA Local Government House Trust Minutes November 2018</li></ol>
<b>Report Prepared By</b>	: Manager Governance & Risk (S Jamieson)
<b>Responsible Officers:</b>	: Chief Executive Officer (A Sharpe)

### CONFIDENTIAL REPORT

*This report is considered as CONFIDENTIAL in accordance with section 5.23(2)(b)(d) of the Local Government Act 1995, as it relates to financial affairs and legal advice of another entity.*

#### CCS241: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

**THAT Council APPROVES the proposed variation to the Trust Deed for the Local Government House Trust.**

#### CCS241: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR BENSON-LIDHOLM

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 12-0

#### CCS241: RESPONSIBLE OFFICER RECOMMENDATION

**THAT Council APPROVES the proposed variation to the Trust Deed for the Local Government House Trust.**

**CCS242: QUARTERLY REPORT – TENDERS AWARDED – JANUARY TO MARCH 2020**

<b>Proponent</b>	: City of Albany
<b>Attachments</b>	: Quarterly Report – Tenders Awarded – January to March 2020
<b>Report Prepared by</b>	: Senior Procurement Officer (H Hutchinson)
<b>Responsible Officer</b>	: Executive Director Corporate & Commercial Services (D Olde)

**RECOMMENDATION**

**CCS242: RESPONSIBLE OFFICER RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council RECEIVE the Quarterly Report – Tenders Awarded – January to March 2020.**

## DIS204: BIBBULMUN TRACK AND MUNDA BIDDI TRAIL - SOUTHERN TRAILS TERMINUS

<b>Land Description</b>	: Lot 1374 239 – 259 York Street - Alison Hartman Gardens
<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: Southern Trails Terminus Concept Drawings (DBCA)
<b>Supplementary Information on the Hub only</b>	: 1. DBCA Presentation to Elected Members 11 March 2020 2. Community Engagement Alison Hartman Gardens 3. Alison Hartman Gardens Concept Plan 4. GSCORE Great Southern Regional Trails Strategy
<b>Report Prepared By</b>	: Manager Major Projects (A McEwan)
<b>Responsible Officers:</b>	: Executive Director Infrastructure, Development and Environment (P Camins)

### STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - **Theme:** Community Health & Participation
  - **Objective:** To create interesting places, spaces and events that reflect our community's identity, diversity and heritage
  - **Community Priority:** Maintain infrastructure and deliver programs that promote Albany's unique heritage, engender civic pride and leave a lasting legacy

#### In Brief:

- The Department of Biodiversity, Conservation and Attractions (DBCA) Parks & Wildlife Service have identified Alison Hartman Gardens (area surrounding the Norfolk Island trees) as the preferred location for a Southern Trail Terminus (Bibbulmun Track & Munda Biddi trails).
- DBCA have completed a detailed design package and have confirmed available funding within their 19/20 budget for the projects implementation.
- DBCA have requested that the City of Albany consider approval of the project's implementation and provide in-kind support, in the form of project management and administration.

### COVID-19 IMPACT

- May be some delay in construction dependant on levels of restriction.

### RECOMMENDATION

#### DIS204: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

#### THAT:

1. The concept designs developed by the Department of Biodiversity, Conservation and Attractions for the Southern Trails Terminus, located in Alison Hartman Gardens be **ADOPTED**.
2. The City of Albany being reimbursed by the project to project manage the construction of the Southern Terminus, subject to the project being funded by the Department of Biodiversity, Conservation and Attractions be **APPROVED**.

**DIS204: COMMITTEE RECOMMENDATION (AMENDMENT BY COUNCILLOR STOCKS)**

**MOVED: COUNCILLOR STOCKS**

**SECONDED: COUNCILLOR BENSON-LIDHOLM**

**THAT:**

1. The concept designs developed by the Department of Biodiversity, Conservation and Attractions for the Southern Trails Terminus, located in Alison Hartman Gardens be **ADOPTED**.
2. The City of Albany being reimbursed by the project to project manage the construction of the Southern Terminus, subject to the project being funded by the Department of Biodiversity, Conservation and Attractions be **APPROVED**.

**CARRIED 12-0**

**DIS204: AMENDMENT BY COUNCILLOR STOCKS**

**MOVED: COUNCILLOR STOCKS**

**SECONDED: COUNCILLOR BENSON-LIDHOLM**

**THAT** Point 2 of the Responsible Officer Recommendation be **AMENDED** to read as follows:

2. The City of Albany being reimbursed by the project to project manage the construction of the Southern Terminus, subject to the project being funded by the Department of Biodiversity, Conservation and Attractions be **APPROVED**.

**CARRIED 12-0**

**DIS204: RESPONSIBLE OFFICER RECOMMENDATION**

**MOVED: COUNCILLOR STOCKS**

**SECONDED: COUNCILLOR BENSON-LIDHOLM**

**THAT:**

1. The concept designs developed by the Department of Biodiversity, Conservation and Attractions for the Southern Trails Terminus, located in Alison Hartman Gardens be **ADOPTED**.
2. City of Albany staff providing in-kind support to project manage the construction of the Southern Terminus, subject to the project being funded by the Department of Biodiversity, Conservation and Attractions be **APPROVED**.

**BACKGROUND**

3. The Department of Biodiversity, Conservation and Attractions, Parks & Wildlife have completed detailed design development for the Southern Trails Terminus within Alison Hartman Gardens and have confirmed available funding within their 2019/20 budget for the projects implementation.
4. The Department of Biodiversity, Conservation and Attractions Parks & Wildlife has requested that the City of Albany provide in-kind support in the form of project management for the project's implementation.

**DISCUSSION**

5. Alison Hartman Gardens is a keystone in the Albany City Hub precinct being located on York Street between the historic education site and Albany Tourism & Information Hub. Redevelopment of the Gardens has been undertaken to identify, celebrate and promote our local community, history, culture, environment, and visitor economy.
6. The recent enhancement of Alison Hartman Gardens has included some limited recognition of the Bibbulmun Track through signage. A key benefit of the garden's recent enhancement was its increased capacity to host, link and promote local and regional trails.

7. The current southern terminus of the Bibbulmun Track & Munda Biddi trails is located on Proudlove Parade (near the old visitor centre) and does not meet user or DBCA expectations due to its distance from the new visitor centre and poor amenity. The creation of a new Southern Trails Terminus at Alison Hartman Gardens would involve the decommissioning of this current trail terminus.
8. As part of this project, DBCA will coordinate, facilitate and pay for any required trail realignment, associated signage, marketing and promotion.
9. The relocation and promotion of a Southern Trails Terminus within the City Centre strategically draws on Albany's comparative advantage to contribute to the social, recreational and economic sustainability of the City, and leverage investment into future growth industries such as cultural and adventure tourism.

#### **GOVERNMENT & PUBLIC CONSULTATION**

10. The Southern Trails Terminus project proposal was presented to Elected Members by Kerstin Stender (Coordinator, Recreation & Trails Unit, DBCA) on 11 March 2020.
11. The Alison Hartman Gardens Enhancement project promoted improving accessibility and precinct links within a local hub for community, culture and trails of local and regional significance.
12. Relevant Government departments consulted for this project included: Department of Planning, Lands and Heritage / Heritage Council of Western Australia; Department of Education; Department of Environmental Regulation; Department of Aboriginal Affairs; and Department of Conservation, Biodiversity and Attractions.
13. Consultation with the local Aboriginal community revealed strong support for greater recognition and interpretation of key cultural values and stories in the broader Town Square Civic Precinct and Alison Hartman Gardens, subsequently achieved in the completed Enhancement Project public art and interpretation components centred around the Visitor Centre and Mokare Statue nodes.
14. The Department of Planning, Lands and Heritage have advised that no additional Aboriginal Heritage consultation is required for the Southern Trails Terminus project due to the minimal proposed impact on the area of land, the physical dimensions of the project, and its location on top of an already disturbed / redeveloped area.
15. The Southern Terminus project closely aligns with GSCORE's Great Southern Regional Trails Strategy - to build on the Albany Trail Hub Strategy to identify a regional network of trail towns and trail centres.

#### **STATUTORY IMPLICATIONS**

16. The voting requirement of council is to be **Simple Majority**.

#### **POLICY IMPLICATIONS**

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

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Finance</b> <i>Risk: Expectations of funding body not being reached.</i>	Possible	Moderate	Medium	Implement the project in accordance with approved concept and engage regularly with DBCA key staff.
<b>Reputation</b> <i>Risk: Community benefit not realised by the project not being implemented and not being consistent with expectations.</i>	Possible	Moderate	Medium	Concept plans are approved enabling works to be scheduled
<b>Opportunity:</b> To implement infrastructure enhancements which contribute to a more vibrant and sustainable City Centre and promote local and regional trails.				

## FINANCIAL IMPLICATIONS

19. The project cost has been estimated by DBCA to be in the order of \$100,000 to \$120,000.
20. DBCA has stated that it will provide \$100,000 from its 2019/20 budget.
21. There is not proposed to be any cash contribution for the City for this project.
22. The project will be value managed in accordance with the available budget or staged accordingly to fit the DBCA budget allowance.
23. It is proposed that the City of Albany will provide an in-kind contribution to project manage the implementation of the project. This includes; project approval, procurement (request for quotations), contract award, contract management, commissioning and handover.
24. Should the project be supported, expenditure of DBCA funds will be subject to the preparation of grant agreement to the satisfaction of both parties.
25. Should the project be supported, the ongoing management of the asset will be subject to a maintenance and management agreement to be prepared between both parties.

## LEGAL IMPLICATIONS

26. Should the project be supported, a grant agreement will be prepared by both parties for the expenditure of DBCA funds and ongoing asset maintenance.

## ENVIRONMENTAL CONSIDERATIONS

27. The Department of Water and Environmental Regulation has confirmed the site has not been reported to DWER as a known or suspected contaminated site, either prior to or after the commencement of the Contaminated Sites Act 2003.

## ALTERNATE OPTIONS

28. Council may elect not to approve the concept designs or provide in-kind project management support.
29. External funding may be impacted and the project would not proceed.

## CONCLUSION

30. The concept plans prepared by DBCA are at a stage for the City to implement for approval, quotation and implementation.
31. To ensure that the project is completed in a timely manner and in accordance with the current available funding, it is recommended that council adopt the concept design for the Southern Trails Terminus Project.
32. This project ties in with City of Albany's long-term strategy for City Centre revitalisation and enhancement as well as key objectives to improve and promote regional trails.



<b>Consulted References</b>	:	City of Albany Community Strategic Plan Albany 2030
<b>File Number (Name of Ward)</b>	:	PR.DEC.33 (Frederickstown Ward)
<b>Previous Reference</b>	:	<p>Elected Members Briefing by DCBA – 11 March 2020.  DIS110 Minutes AHG July 2018.  OCM - 24 October 2016 - PD143.  Development &amp; Infrastructure Services Committee Briefing 15 February 2017.</p> <p>Elected Members Briefing Note - 8 May 2017 - Lotterywest Funding Submission - Town Hall and Alison Hartman Gardens.  OCM - 27 June 2017 - CCCS035.  Elected Members Strategic Briefing 19 June 2018 – Albany City Centre Projects.</p>

## DIS205: STRATA LOT 1, 256 COSY CORNER RD, KRONKUP – SHOP, CONSULTING ROOM & SMALL BAR

Land Description	: Strata Lot 1, 256 Cosy Corner Road, Kronkup WA 6330
Proponent	: CC Rooney
Business Entity Name	: NIL
Attachments	: 1. Copy of Application 2. Schedule of Submissions
Report Prepared By	: Senior Planning Officer - (T Gunn)
Responsible Officers:	: Executive Director Infrastructure, Development and Environment (P Camins)

### STRATEGIC IMPLICATIONS

1. Council is required to exercise its quasi-judicial function in this matter.
2. In making a decision on the proposed development application, Council is obliged to draw conclusion from its adopted *Community Strategic Plan – Albany 2030*.
  - a) The *Albany Community Strategic Plan – Albany 2030* recommends a proactive planning service that supports sustainable growth while reflecting our local character and heritage (Community Priority: 5.1.2).
3. The item relates to the following Strategic Objectives of the Albany Local Planning Strategy (ALPS):
  - a) *Plan for sustainable rural villages as viable community hubs with a diverse economic base.*
  - b) *Enable tourist growth and diversification through land use planning mechanisms.*

### Maps and Diagrams: Lot 1, 256 Cosy Corner Road, Kronkup



**In Brief:**

- The City of Albany has received a development application at Strata Lot 1, 256 Cosy Corner Road to expand and improve the existing shop and café to include a small bar, additional café floor area and a consulting room.
- The application was advertised for public comment. Through this process eight (8) responses were received. The responses are discussed in detail throughout the report.
- Having considered the proposal against the applicable statutory framework, Staff recommend the proposal be supported subject to conditions, which are considered to mitigate the concerns raised through the public advertising processes.

**COVID-19 IMPLICATIONS:**

- Planning and Building application processes are not likely to be affected. There may be some construction and operational impacts.

**RECOMMENDATION**

**DIS205: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for Shop, Consulting Room & Small Bar at Strata Lot 1, 256 Cosy Corner Road, Kronkup:**

**Conditions:**

1. All development shall occur in accordance with the stamped, approved plans referenced P2190311, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.
3. Stormwater management plans and details shall be submitted for approval, implemented and constructed to the satisfaction of the City of Albany.

**Advice:**

- *Stormwater management is to be designed in accordance with the 'City of Albany's Subdivision and Development Guidelines'.*
4. A vehicular parking and access plan shall be submitted for approval, implemented and constructed to the satisfaction of the City of Albany.

**Advice:**

- *Car parking and access is to be designed in accordance with the Australian Standard 2890.*
  - *The plan shall clearly indicate the intended use of all parking bays (eg disabled bay, loading bay etc), access areas, line marking, kerbing and sealing.*
  - *Should any parking change or be removed, alternate arrangements (which may include a reduction in patron numbers) are to be made to the satisfaction of the City of Albany.*
5. The applicant/landowner is responsible for any maintenance requirements for any parking and access areas approved by the City of Albany within any Road Reserves, however if required, the City reserves the right to develop/modify the parking areas with no obligation to replace any parking that is lost.
  6. Prior to commencement of use, the operator shall prepare and submit for approval detailed Management Plans for the premises, detailing practices and controls to

**minimise amenity impacts and noise emissions, to the satisfaction of the City of Albany.**

- 7. Prior to commencement of development a Bushfire Management Plan (including Bushfire Emergency Evacuation Plan) for the subject site is to be prepared in accordance with State Planning Policy 3.7 – *Planning in Bushfire Prone Areas*, to the satisfaction of the City of Albany.**
- 8. The premises shall be operated in accordance with any approved Management, Bushfire Management and Bushfire Emergency Evacuation Plans, to the satisfaction of the City of Albany.**
- 9. 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.***

- 10. 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.**
- 11. 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.**
- 12. 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.**
- 13. 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.**
- 14. The parking areas shall be illuminated when they are in use, or may be sought to be used by patrons during hours of darkness, to the satisfaction of the City of Albany.**
- 15. No person shall install or cause or permit the installation of outdoor lighting otherwise than in accordance with the requirements of Australian Standard AS 4282 - 2019 Control of the Obtrusive Effects of Outdoor Lighting.**
- 16. A maximum of 90 patrons shall be on site at any one time, unless otherwise agreed in writing by the City of Albany.**
- 17. The premises may remain open for customers/patrons until 12.00am no more than two times in any calendar month, unless otherwise agreed to in writing by the City of Albany.**

**CARRIED 11-0**

**DIS205: COMMITTEE RECOMMENDATION (AMENDMENT BY COUNCILLOR THOMSON)**

**MOVED: COUNCILLOR SLEEMAN**

**SECONDED: COUNCILLOR GOODE**

**THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for Shop, Consulting Room & Small Bar at Strata Lot 1, 256 Cosy Corner Road, Kronkup:**

**Conditions:**

- 1. All development shall occur in accordance with the stamped, approved plans referenced P2190311, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.**

2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.
3. Stormwater management plans and details shall be submitted for approval, implemented and constructed to the satisfaction of the City of Albany.

*Advice:*

- *Stormwater management is to be designed in accordance with the 'City of Albany's Subdivision and Development Guidelines'.*

4. A vehicular parking and access plan shall be submitted for approval, implemented and constructed to the satisfaction of the City of Albany.

*Advice:*

- *Car parking and access is to be designed in accordance with the Australian Standard 2890.*
- *The plan shall clearly indicate the intended use of all parking bays (eg disabled bay, loading bay etc), access areas, line marking, kerbing and sealing.*
- *Should any parking change or be removed, alternate arrangements (which may include a reduction in patron numbers) are to be made to the satisfaction of the City of Albany.*

5. The applicant/landowner is responsible for any maintenance requirements for any parking and access areas approved by the City of Albany within any Road Reserves, however if required, the City reserves the right to develop/modify the parking areas with no obligation to replace any parking that is lost.
6. Prior to commencement of use, the operator shall prepare and submit for approval detailed Management Plans for the premises, detailing practices and controls to minimise amenity impacts and noise emissions, to the satisfaction of the City of Albany.
7. Prior to commencement of development a Bushfire Management Plan (including Bushfire Emergency Evacuation Plan) for the subject site is to be prepared in accordance with State Planning Policy 3.7 – *Planning in Bushfire Prone Areas*, to the satisfaction of the City of Albany.
8. The premises shall be operated in accordance with any approved Management, Bushfire Management and Bushfire Emergency Evacuation Plans, to the satisfaction of the City of Albany.
9. 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.*

10. 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.
11. 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.
12. 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.
13. 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.

14. The parking areas shall be illuminated when they are in use, or may be sought to be used by patrons during hours of darkness, to the satisfaction of the City of Albany.
  15. No person shall install or cause or permit the installation of outdoor lighting otherwise than in accordance with the requirements of Australian Standard AS 4282 - 2019 Control of the Obtrusive Effects of Outdoor Lighting.
  16. A maximum of 90 patrons shall be on site at any one time, unless otherwise agreed in writing by the City of Albany.
  17. The premises may remain open for customers/patrons until 12.00am no more than two times in any calendar month, unless otherwise agreed to in writing by the City of Albany.
- CARRIED 11-0

**DIS205: AMENDMENT BY COUNCILLOR THOMSON**

MOVED: COUNCILLOR SLEEMAN  
SECONDED: COUNCILLOR GOODE

THAT Point 17 of the Responsible Officer Recommendation be AMENDED to read:

17. The premises may remain open for customers/patrons until 12.00am no more than two times in any calendar month, unless otherwise agreed to in writing by the City of Albany.
- CARRIED 11-0

**Councillor Reason:**

The intent of Point 17 remains the same. Minor amendment only to improve clarity.

**Officer Comment (Executive Director Infrastructure, Development and Environment):**

The proposed modification is supported. Although the intent was the same, the previous wording was somewhat confusing.

**DIS205: RESPONSIBLE OFFICER RECOMMENDATION**

MOVED: COUNCILLOR HAMMOND  
SECONDED: COUNCILLOR SMITH

THAT Council resolves to ISSUE a notice of determination granting development approval, subject to the following conditions, for Shop, Consulting Room & Small Bar at Strata Lot 1, 256 Cosy Corner Road, Kronkup:

**Conditions:**

1. All development shall occur in accordance with the stamped, approved plans referenced P2190311, unless varied by a condition of approval or a minor amendment, to the satisfaction of the City of Albany.
2. If the development, the subject of this approval, is not substantially commenced within a period of 2 years from the date of approval, the approval shall lapse and be of no further effect.
3. Stormwater management plans and details shall be submitted for approval, implemented and constructed to the satisfaction of the City of Albany.

*Advice:*

- *Stormwater management is to be designed in accordance with the 'City of Albany's Subdivision and Development Guidelines'.*

4. A vehicular parking and access plan shall be submitted for approval, implemented and constructed to the satisfaction of the City of Albany.

*Advice:*

- *Car parking and access is to be designed in accordance with the Australian Standard 2890.*
  - *The plan shall clearly indicate the intended use of all parking bays (eg disabled bay, loading bay etc), access areas, line marking, kerbing and sealing.*
  - *Should any parking change or be removed, alternate arrangements (which may include a reduction in patron numbers) are to be made to the satisfaction of the City of Albany.*
5. The applicant/landowner is responsible for any maintenance requirements for any parking and access areas approved by the City of Albany within any Road Reserves, however if required, the City reserves the right to develop/modify the parking areas with no obligation to replace any parking that is lost.
  6. Prior to commencement of use, the operator shall prepare and submit for approval detailed Management Plans for the premises, detailing practices and controls to minimise amenity impacts and noise emissions, to the satisfaction of the City of Albany.
  7. Prior to commencement of development a Bushfire Management Plan (including Bushfire Emergency Evacuation Plan) for the subject site is to be prepared in accordance with State Planning Policy 3.7 – *Planning in Bushfire Prone Areas*, to the satisfaction of the City of Albany.
  8. The premises shall be operated in accordance with any approved Management, Bushfire Management and Bushfire Emergency Evacuation Plans, to the satisfaction of the City of Albany.
  9. 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.*
  10. 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.
  11. 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.
  12. 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.
  13. 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.
  14. The parking areas shall be illuminated when they are in use, or may be sought to be used by patrons during hours of darkness, to the satisfaction of the City of Albany.
  15. No person shall install or cause or permit the installation of outdoor lighting otherwise than in accordance with the requirements of Australian Standard AS 4282 - 2019 Control of the Obtrusive Effects of Outdoor Lighting.
  16. A maximum of 90 patrons shall be on site at any one time, unless otherwise agreed in writing by the City of Albany.
  17. The premises shall not be open for customers/patrons after 10.00pm but no later than 12.00am, more than twice in any calendar month, unless otherwise agreed in writing with the City of Albany.

**BACKGROUND**

4. The City of Albany has received an application for development approval for a Shop, Consulting Room and Small Bar at Strata Lot 1, 256 Cosy Corner Road, Kronkup.
5. The subject site is located approximately 28km west of the Albany CBD and 1.3km to the north west of Cosy Corner Beach.
6. The subject site is 1198m<sup>2</sup> in area and zoned Special Use Zone 7 under Local Planning Scheme No.1 (LPS 1).
7. The tourist node is surrounded by Rural Residential land to the south and west and City of Albany and Crown reserves to the east. Priority Agriculture land is located over 150m to the north of the subject site.
8. The subject site was developed as a tourist node, and forms part of a strata subdivision which was initially planned for 15 short stay holiday accommodation chalets, managers dwelling and corner store/deli and attached caretakers dwelling. In addition to the subject development, there are currently 12 chalets within the strata.
9. The subject site was originally developed as the shop and caretakers dwelling. Over time these uses have been converted into a café and shop. The applicant proposes to redevelop the site by expanding and improving the existing café, retaining and refocusing the shop, and adding a small bar and a room for visiting consultants.
10. The application was initially advertised for public comment for period of 26 days, with nearby landowners directly notified by letter. Through this process, a total of seven (7) responses were received; two (2) objections, three (3) letters of support and two (2) letters of support subject to modifications.
11. The original application detail was not explicitly clear on the permissible and regular opening hours. It was interpreted that the regular opening hours (which were significantly less than the permissible openings hours) were the hours that were being applied for.
12. The applicant intended this to indicate both the potential openings hours, and the 'usual' opening hours. Further information and clarification in this respect was received.
13. The application was subsequently readvertised for a period of 21 days. One (1) submission was received from a person whom initially objected to the proposal, and raised further concerns.
14. The comments, including the proponent's and staffs' recommendations are provided in the attached 'Schedule of Submissions'. The broad issues are identified and discussed further within the report.
15. Staff consider that the recommended conditions will manage and mitigate the issues raised within the public consultation period.
16. Council is now requested to consider the submissions received during the public advertising period and determine whether to grant development approval.

**DISCUSSION**

17. The proposal consists of;
  - Removal of the existing caretakers residence;
  - Expansion of dining/bar area within the eastern side of the existing building;
  - Creation of a beer garden/outdoor dining area consisting of small tables and picnic tables;
  - Conversion of the existing carport to a storeroom;
  - Addition of an outdoor eating area including garden area and play space;
  - Retaining the existing carport driveway to create additional parking space for staff; and
  - Use of an existing room within the building to allow for visiting consultants that would offer services to the local community and adjacent tourist development. This may



include massage, health services, financial services, etc. from Albany on an as needs basis.

18. The footprint of the existing building will remain largely unchanged, a minor extension for a cleaning store room and kitchen extension on the western side of the building is proposed. The reconfiguration of the floor space results in an additional 27m<sup>2</sup> of public space (excluding store rooms and kitchen space).
19. The subject site operates as a service centre and meeting place for the Torbay Hill community, visitors to the adjacent tourism developments, beaches, trail users and campers and visitors from Albany. It is the only site in the immediate locality that provides goods and services to the area. The consulting room and small bar uses are considered incidental and complement the services one would expect from a vibrant tourist node and rural village local centre.
20. The applicant will be applying for a 'Small Bar' license in accordance with the *Liquor Control Act 1988*, which is defined as;  
  
*'A small bar license authorises the sale and supply of liquor for consumption on the licensed premises only (such as no packaged liquor sales). It is also subject to the condition that no more than 120 persons may be present on the licensed at any one time.'*
21. The applicant originally applied for a total capacity allowance of 120 patrons. However, for those reasons outlined further below (amount of parking, and concerns raised), staff recommend the application of a planning condition to limit the maximum number of patrons to 90 onsite at any one time.
22. The legal opening hours for a small bar licence issued by the Department of Racing Gaming and Liquor are as follows:
  - *Monday to Saturday from 6 a.m. to 12 midnight;*
  - *Sunday from 10 a.m. to 12 p.m.;*
  - *Christmas Day and Good Friday from 12 noon to 10 p.m. where the liquor is sold ancillary to a meal supplied by the licensee;*
  - *New Year's Eve (Monday to Saturday) from 6 a.m. to 2 a.m. on New Year's Day;*
  - *New Year's Eve (Sunday) from 10 a.m. to 2 a.m. on New Year's Day;*
  - *Anzac Day from 12 noon to 12 midnight.*
23. While the applicant seeks approval for the maximum hours permissible under a Small Bar Liquor License, the applicant advised the proposed regular operating hours will be;
  - Summer: All days - 7.00am to 7.00pm;
  - Winter: Monday, Tuesday and Wednesday – 7.30 am to 5.00pm; and
  - Winter: Thursday, Friday, Saturday and Sunday – 7.30am to 7.00pm.
24. Flexibility is sought to allow for later opening times to respond to demand and allow for local events and functions. In support of the opening hours the applicant has highlighted that:
  - These are likely to be utilised only on occasion and will not be the rule;
  - The management commitments (particularly around noise) in the Small Bar Management Plan should address any concerns with late night noise and or antisocial behaviour;
  - This is a rural area with limited numbers of permanent, residential neighbours that may be impacted by the occasional late-night opening;
  - That if tighter, unrealistic hours were implemented, then liquor licencing laws may become onerous; and
  - There is likely to be an expectation that a small bar would be open later into the evening, at least on weekends and when functions are proposed.
25. The site is within a tourist area development and is surrounded by short stay chalets and apartments. From an amenity perspective, it could be expected that noise and impacts on amenity is likely to be higher than that one would normally expect in a residential area.

26. Notwithstanding this, the potential risk for an increase in noise and disturbance to nearby landowners and occupiers does exist. Staff consider that the issues can be mitigated by the 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, including: staff training, noise management and mitigations measures, and the process for dealing with complaints.
27. 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. Furthermore, that the premises is not open after 10.00pm more than twice in any calendar month, unless otherwise agreed in writing with the City of Albany. The operation of the venue would also be required to comply with the *Environmental Protection (Noise) Regulations 1997*.
28. Access to the property is via a crossover on Cosy Corner Road. Cosy Corner Road currently carries a significant amount of local and tourist traffic.
29. The existing café has 7 parking bays and a carport for the caretaker's residence. A revised parking layout and arrangement has been proposed, which includes:
  - An accessible bay;
  - Dedicated bicycle parking area and infrastructure;
  - 4 dedicated parking bays for staff (one of which is in a tandem arrangement);
  - 9 bays within the site (including the accessible bay).
  - An additional 7 bays partly within the adjacent Cosy Corner Road reserve. All costs (including maintenance) is to be borne solely by the developer.
30. The applicant originally proposed to use one of the strata lots for overflow parking, however given no vehicle access is permitted directly onto Cosy Corner Road and the concerns received, the applicant has withdrawn this proposal from the application.
31. The City's Assets Team are supportive of utilising the verge for parking. All associated costs with required upgrades and maintenance are to be borne by the developer. Staff recommend that conditions be applied in this respect, including the requirement for a final vehicular parking and access plan be applied.
32. In terms of parking requirements, Local Planning Scheme No.1 requires 1 bay per 4 persons the facility is designed to accommodate, plus 1 bay per employee for a 'Restaurant'. A 'Shop' requires 1 bay per 20m<sup>2</sup> of net lettable area. 'Consulting Rooms' require 3 bays per practitioner plus 1 bay per 3 employees. LPS 1 does not list a minimum car parking requirement for a 'Small Bar'.
33. Where a parking requirement is not specified, clause 4.8.5.3 of LPS 1 allows the local government to exercise its discretion in determining the parking bays required. Due to a number of factors, including the opening times and relatively moderate scale of the proposal, the premises is highly unlikely to operate in the same manner as a tavern, but is more akin to a restaurant in terms of parking generated.
34. Similar to patrons of the small bar/restaurant, a number of customers purchasing items from the shop are likely to be tourists staying within the adjacent apartments and chalets, who are expected to walk to the premise.
35. It is proposed that the Consulting Room will operate during standard daylight hours, outside of peak times for the restaurant/small bar. In accordance with clause 4.8.5.6 (a) of LPS 1, staff consider the parking would therefore be shared.
36. Due to the 24 short stay apartments and chalets directly adjacent to the proposal, staff recommend restricting patron numbers to no more than 90 on site at any one time. The applicant has agreed to this requirement.

37. The main concerns raised during the advertising period are discussed below. The applicable officer response and mitigation measures are also outlined below.

Summary of submissions	Officer comment
Use of the road reserve for car parking.	The City's Assets Team are supportive of utilising the verge for parking. All associated costs including the cost of maintenance are to be borne by the developer. Staff recommend that conditions be applied in this respect, including the requirement for a final vehicular parking and access plan be applied.
Parking on strata lot 7 and associated additional traffic on the common property.	As no direct vehicle access is permitted directly onto Cosy Corner Road, following discussions with the proponent the proposed parking on strata lot 7 has been withdrawn from the application.
Impacts on the amenity of the area including potential increase in noise and opening hours.	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 staff and management, noise management plan and measures and the process for dealing with complaints. The venue manager also resides in the area. 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. Additionally, the premises is not open after 10.00pm more than twice in any calendar month, unless otherwise agreed in writing with the City of Albany. The operation of the venue would also be required to comply with the <i>Environmental Protection (Noise) Regulations 1997</i> .
Concerns with the serving of alcohol and potential increase in anti-social behaviour.	The operators of the premises will be responsible for managing patrons in accordance with the approved management plans 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.
Use of the proposed consulting room.	The consulting room proposed is intended for visiting professionals bringing services to the local community and visitors to the adjacent holiday accommodation rather than necessitating a trip into Albany. Massage, Chiropractic, Physiotherapy, GP's etc. would be encouraged to use the space which would be let in response to demand.
Concerns with 120 patrons on site.	Due to the 24 short stay apartments and chalets directly adjacent to the proposal, staff and bicycle parking and 16 customers' bays, staff recommend restricting patron numbers to no more than 90 on site at any one time. The applicant has agreed to this requirement.

38. It is considered that the mitigation measures outlined above address the concerns raised during the public consultation process.
39. It is recommended that Council approve the proposed development, subject to the conditions recommended.

#### GOVERNMENT & PUBLIC CONSULTATION

40. The application was originally advertised for public comment for a period of 26 days, with nearby landowners directly notified by letter. A total of seven (7) responses were received; two (2) objections, three (3) letters of support and two (2) letters of support subject to modifications.

41. The application was readvertised for a period of 21 days. As mentioned above, one (1) submission was received from an individual whom initially objected, raising additional concerns.
42. The comments, including the proponent's and staffs' recommendations are provided in the attached 'Schedule of Submissions'. The broad issues are summarised and discussed above.

	Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
First Round	Consult	Mail Out	27/11/2019 to 23/12/2019	7 Submissions received	No
Second Round	Consult	Mail Out	26/02/2020 to 18/03/2020	1 Submission received	No

### STATUTORY IMPLICATIONS

43. The subject land is zoned Special Use Zone 7 under LPS 1.
44. Schedule 4 of LPS 1 sets out -
  - (a) *special use zones for specified land that are in addition to zones in the zoning table; and*
  - (b) *the classes of special use that are permissible in that zone; and*
  - (c) *the conditions that apply in respect of the special uses.*
45. The following uses are listed for Special Use Zone 7 under Schedule 14 of LPS 1;
  - Holiday Accommodation (Chalet/Cottage Units)
  - Caretaker's Dwelling
  - Recreation - Private
  - Shop
  - Incidental Uses
46. The subject site is the only establishment in the immediate locality that provides goods and services to the area, which is identified as a "rural village" by the Albany Local Planning Strategy. The consulting room & small bar uses are considered incidental and complement the services provided.
47. The proposal complies with the relevant conditions listed under Schedule 14 of LPS 1 pertinent to the site.
48. Voting requirement for this item is **SIMPLE MAJORITY**.

### POLICY IMPLICATIONS

49. The subject site is designated as bushfire prone as per the Western Australia State Map of Bush Fire Prone Areas, which triggers bushfire planning requirements under State Planning Policy 3.7 – *Planning in Bushfire Prone Areas* and associated guidelines.
50. Given the building is existing and already functions as a café and store, the single difference the application brings is the potential moderate increased in customers. As the proposal does not result in a significant intensification of use, a pragmatic approach has been undertaken for assessment against the Policy and Guidelines.
51. The most pertinent matters are vehicular access and evacuation considerations. The property has two directions of access/egress available, either north or south on Cosy Corner Road. Staff have recommended a condition be applied requiring a Bushfire Management Plan including Emergency Evacuation Plan to be prepared and implemented.

**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation.</b> <i>The approval may generate unacceptable impacts on the amenity on the area.</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>The application has been assessed against the relevant statutory framework. Potential impacts on local amenity can be mitigated by the application of appropriate planning conditions.</i>
<b>Opportunity:</b> <i>Responds to community needs for tourism growth and creating viable community hubs in the municipality.</i>				

**FINANCIAL IMPLICATIONS**

53. There are no financial implications directly relating to this item.

**LEGAL IMPLICATIONS**

54. The proponent has the right to seek a review of the Council's decision, including any conditions attached to an approval, conferred by the *Planning and Development Act 2005*. The City of Albany may be required to defend the decision at a State Administrative Tribunal hearing.

**ENVIRONMENTAL CONSIDERATIONS**

55. There are no environmental implications directly relating to this item.

**ALTERNATE OPTIONS**

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

- To resolve to refuse the proposal subject to reasons; and
- To resolve to approve the proposal subject to additional or modified conditions.

**CONCLUSION**

57. The proposal has been modified to address the concerns raised, including a reduction in the maximum number of customers, and modification to the parking arrangements.
58. The matters raised in the public submissions received during the advertising period have also been addressed and can be mitigated through the application of appropriate planning conditions.
59. It is therefore recommended that Council approve the proposed development, subject to the conditions provided.

<b>Consulted References</b>	:	1. Local Planning Scheme No. 1 2. Albany Local Planning Strategy 2010 3. Planning and Development (Local Planning Schemes) Regulations 2015 4. State Planning Policy 3.7 – <i>Planning in Bushfire Prone Areas</i>
<b>File Number (Name of Ward)</b>	:	A166636 West Ward
<b>Previous Reference</b>	:	Nil

**DIS206: PLANNING AND BUILDING REPORTS MARCH 2020**

**Proponent / Owner** : City of Albany.  
**Attachments** : Planning and Building Reports February 2020  
**Report Prepared By** : Administration Officer – Planning (A James)  
Administration Officer – Development Services (J Corcoran)  
**Responsible Officers:** : Manager Planning and Land Information Services  
(J Van Der Mescht)

**RECOMMENDATION**

**DIS206: RESPONSIBLE OFFICER RECOMMENDATION**  
**VOTING REQUIREMENT: SIMPLE MAJORITY**

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

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 SUTTON**

**Date and Time Received:** Wednesday 11 March 2020.

**15.1: NOTICE OF MOTION BY COUNCILLOR SUTTON  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**THAT the Non-Habitable Structures Policy be REVIEWED with a view to relaxing the current Maximum Floor Area requirements in certain circumstances.**

**Councillor Reason:**

In light of recent requests from a small number of residents for permission to erect outbuildings which exceed the Maximum Floor Area (MFA) requirements of this Policy, it would be timely for Council to review the current Non-Habitable Structures Policy. The Policy was adopted by Council at the Ordinary Council Meeting held on 26 September 2017.

Review of the Policy would allow Council to determine if there is a legitimate need to increase the allowable MFA in some cases, and whether this can be a discretion delegated to officers, or a decision for Council on a case by case basis.

**Officer Comment (Coordinator Planning Services):**

The Non-Habitable Structures Policy is a Local Planning Policy and can already be applied with discretion. One of the purposes of the policy is to guide discretion by outlining the maximum floor area size for outbuildings. As a decision maker applying policy, it is incumbent on the City of Albany to ensure that decisions are made consistently and in accordance with proper and orderly planning principles.

In many instances when customers request a variation from the policy, there is no sound proper and orderly planning reason provided justifying why the City of Albany should depart from the policy position.

If the exercise of discretion is to be orderly, the planning principles identified within the policy as relevant to an application should not be lightly departed from without the demonstration of a sound basis for doing so. As such, the common notion that an applicant has an abundance of possessions and requests a larger shed than the policy is not considered a cogent reason to depart from the policy.

As a decision maker it is also critical to ensure that decisions are made consistently. If continual variations are to be granted, it is likely that the small number of requests to vary the policy each year will become a significant number of requests. There is a distinct risk that if variations are granted against limited planning grounds, that the City of Albany will prejudice its position in being able to apply the policy consistently.

The construction industry is now well aware of the sizes contained within the policy and rarely requests variations to the size of non-habitable structures. This indicates that the vast majority are accepting of the generous sizes contained within the policy.

In conclusion, discretion already exists - however it is considered that there are limited orderly and proper reasons to depart from this position. In respect to sizes, staff are of the view that the sizes contained within the policy are considerably generous already and significantly larger than other local governments.

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