



AGENDA

Ordinary Meeting of Council

Tuesday 26 March 2024

6.00pm

Council Chambers



NOTICE OF AN ORDINARY COUNCIL MEETING

Dear Mayor and Councillors

The next Ordinary Meeting of the City of Albany will be held on Tuesday 26 March 2024 in the Council Chambers, 102 North Road, Yakamia commencing at 6.00pm.

Andrew Sharpe
CHIEF EXECUTIVE OFFICER

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1. DECLARATION OF OPENING

2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

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

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

We would also like to pay respect to Elders past, present and emerging”

3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

Mayor

G Stocks

Councillors:

Councillor

P Terry (Deputy Mayor)

Councillor

L MacLaren

Councillor

A Cruse

Councillor

C McKinley

Councillor

T Brough

Councillor

R Sutton

Councillor

M Lionetti

Councillor

M Traill

Councillor

D Baesjou

Staff:

Chief Executive Officer

A Sharpe

Executive Director Corporate & Commercial Services

M Gilfellow

Executive Director Infrastructure, Development

& Environment

P Camins

Manager Planning and Building Services

J Van Der Mescht

Meeting Secretary

H Bell

Apologies:

Councillor

S Grimmer

Executive Director Community Services

N Watson (Apology)

4. DISCLOSURES OF INTEREST

Name	Report Item Number	Nature of Interest
Councillor Traill	CCS611	Impartiality. Councillor Traill has been employed at UWA Albany as a tutor since 2016. Councillor Traill remained in the Chamber and participated in the discussion and vote for this item
Councillor Traill	DIS388	Impartiality. The nature of the interest being that Councillor Traill is co-host of a short stay accommodation property in Bornholm.

5. REPORTS OF MEMBERS

6. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE Nil

7. PUBLIC QUESTION TIME

In accordance with City of Albany Standing Orders Local Law 2014 (as amended):

Clause 4 (6) The total time allowed for public question time will be no more than 30 minutes.

Any extension to the time period defined by the City of Albany Standing Orders Local Law 2014 (as amended) will be at the discretion of the Presiding Member.

In accordance with City of Albany Standing Orders Local Law 2014 (as amended):

Clause 5) The Presiding Member may decide that a public question shall not be responded to where—

- (a) the same or similar question was asked at a previous Meeting, a response was provided and the member of the public is directed to the minutes of the Meeting at which the response was provided;*
- (b) the member of the public asks a question or makes a statement that is offensive, unlawful or defamatory in nature, provided that the Presiding Member has taken reasonable steps to assist the member of the public to rephrase the question or statement in a manner that is not offensive, unlawful or defamatory.*

8. APPLICATIONS FOR LEAVE OF ABSENCE

9. PETITIONS AND DEPUTATIONS Nil

10. CONFIRMATION OF MINUTES

DRAFT MOTION

VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the minutes of the Ordinary Council Meeting held on 26 February 2024, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

11. PRESENTATIONS Nil

12. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

CCS607: MONTHLY FINANCIAL REPORT – JANUARY 2024

Proponent / Owner : City of Albany
Attachments : Monthly Financial Report – January 2024
Report Prepared By : Manager Finance (S van Nierop)
Authorising Officer: : Executive Director Corporate & Commercial Services
(M Gilfellon)

STRATEGIC IMPLICATIONS

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

IN BRIEF

- Under the Local Government Financial Management Regulations, a local government is to prepare monthly a statement of financial activity that is presented to Council.
- Under changes to the Regulations in June 2023, a local government is now required to also prepare monthly a statement of financial position that is presented to Council.
- The City of Albany’s Monthly Financial Report (inclusive of the statement of financial activity and the statement of financial position) for the period ending 31 January 2024 has been prepared and is attached.
- In addition, the City provides Council with a monthly investment summary to ensure the investment portfolio complies with the City’s Investment of Surplus Funds Policy.
- The financial information included within the Monthly Financial Report for the period ended 31 January 2024 is preliminary and has not yet been audited.

RECOMMENDATION

CCS607: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the Monthly Financial Report for the period ending 31 January 2024 be RECEIVED.

CCS607: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: MAYOR STOCKS

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS607: AUTHORISING OFFICER RECOMMENDATION

THAT the Monthly Financial Report for the period ending 31 January 2024 be RECEIVED.

DISCUSSION

2. To fulfil statutory reporting obligations, the Monthly Financial Report prepared provides a snapshot of the City's year to date financial performance. The report provides the:
 - (a) Statement of Financial Activity by nature classifications (satisfying Regulation 34 of the Local Government (Financial Management) Regulations 1996);
 - (b) Statement of Financial Position (satisfying Regulation 35 of the Local Government (Financial Management) Regulations 1996);
 - (c) Basis of Preparation
 - (d) Explanation of material variances to year-to-date budget;
 - (e) Net Current Asset & Funding Position;
 - (f) Investment Portfolio Snapshot;
 - (g) Receivables; and
 - (h) Capital Acquisitions.
3. Additionally, each year a local government is to adopt a percentage or value to be used in the Statement of Financial Activity for reporting material variances. Under Council item CCS545, Council approved that a variance between actual and budget-to-date of greater than \$100,000 is a material variance for reporting purposes in the Statement of Financial Activity for 2023/2024.
4. The Statement of Financial Activity and Statement of Financial Position may be subject to year-end adjustments and have not been audited.
5. It is noted that rounding errors may occur when whole numbers are used, as they are in the reports that follow. The 'errors' may be \$1 or \$2 when adding sets of numbers. This does not mean that the underlying figures are incorrect."

STATUTORY IMPLICATIONS

6. The Local Government (Financial Management) Regulations 1996 were amended (SL2023/106) and published on 30 June 2023. The changes, effective from 1 July 2023, have an impact on the reporting of the financial activity statement required each month (Section 34). The below outlines the new reporting requirement under Section 34:
 - 34(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22 (1)(d), for the previous month (the "relevant 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); and
 - (b) budget estimates to the end of the relevant month; and
 - (c) actual amounts of expenditure, revenue and income to the end of the relevant month; and
 - (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 relevant month and a note containing a summary explaining the composition of the net current assets.
 - 34(1B) The detail included under subregulation (1)(e) must be structured in the same way as the detail included in the annual budget under regulation 31(1) and (3)(a).
 - 34(1C) Any information relating to exclusions from the calculation of a budget deficiency that is included as part of the budget estimates referred to in subregulation (1)(a) or (b) must be structured in the same way as the corresponding information included in the annual budget.

- 34(2) Each statement of financial activity is to be accompanied by documents containing-
- (b) an explanation of each of the material variances referred to in subregulation (1)(d); and
 - (c) such other supporting information as is considered relevant by the local government.
- 34(3) The information in a statement of financial activity may be shown according to nature classification.
- 34(4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —
- (a) presented at an ordinary meeting of the council within 2 months after the end of the relevant month; and
 - (b) recorded in the minutes of the meeting at which it is presented.
- 34(5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.
7. An amendment to the *Local Government (Financial Management) Regulations 1996*, effective from 1 August 2023, is the addition of Regulation 35, with Local Governments now required to report a financial position statement each month. The additional Regulation 35 is as follows:
- 35(1) A local government must prepare each month a statement of financial position showing the financial position of the local government as at the last day of the previous month (the previous month) and —
- (a) the financial position of the local government as at the last day of the previous financial year; or
 - (b) if the previous month is June, the financial position of the local government as at the last day of the financial year before the previous financial year.
- 35(2) A statement of financial position must be —
- (a) presented at an ordinary meeting of the council within 2 months after the end of the previous month; and
 - (b) recorded in the minutes of the meeting at which it is presented.

POLICY IMPLICATIONS

8. The City's 2023/24 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 January 2024 has been incurred in accordance with the 2023/24 budget parameters.
11. Details of any budget variation more than \$100,000 (year to date) is outlined in the Statement of Financial Activity. There are no other known events, which may result in a material non-recoverable financial loss or financial loss arising from an uninsured event.

LEGAL IMPLICATIONS

12. Nil.

ENVIRONMENTAL CONSIDERATIONS

13. Nil.

ALTERNATE OPTIONS

14. Nil.

CONCLUSION

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

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

CCS608: LIST OF ACCOUNTS FOR PAYMENT – FEBRUARY 2024

Business Entity Name : City of Albany
Attachments : List of Accounts for Payment
Report Prepared By : Manager Finance (S Van Nierop)
Authorising Officer: : Executive Director Corporate and Commercial Services (M Gilfellon)

STRATEGIC IMPLICATIONS

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

IN BRIEF

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

RECOMMENDATION

CCS608: 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 February 2024 totalling \$7,928,219.70 be RECEIVED.

CCS608: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TRAILL
SECONDED: COUNCILLOR MCKINLEY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS608: AUTHORISING OFFICER RECOMMENDATION

THAT the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 February 2024 totalling \$7,928,219.70 be RECEIVED.

DISCUSSION

2. The table below summarises the payments drawn from the City’s Municipal and Trust funds for the period ending 15 February 2024. Please refer to the Attachment to this report.

Fund	Transaction Type	Amount (\$)
Municipal	Credit Cards	\$16,906.00
Municipal	Payroll	\$1,970,681.11
Municipal	Cheques	\$0.00
Municipal	Electronic Funds Transfer	\$5,939,697.59
Trust	N/A	\$0.00
TOTAL		<u>\$7,928,219.70</u>

3. Included within the Electronic Funds Transfers from the City’s Municipal account are Purchasing Card transactions, required to be reported under Regulation 13(A), totalling: \$18,798.42.
4. The table below summarises the total outstanding creditors as at 15 February 2024.

Aged Creditors	Amount (\$)
Current	\$1,101,460.90
30 Days	\$111,891.96
60 Days	\$0.00
90 Days	-\$1,331.76
TOTAL	<u>\$1,212,021.10</u>
Cancelled Cheques	Nil

STATUTORY IMPLICATIONS

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

13A. Payments by employees via purchasing cards

(1) If a local government has authorised an employee to use a credit, debit or other purchasing card, a list of payments made using the card must be prepared each month showing the following for each payment made since the last such list was prepared

- (a) the payee's name;*
- (b) the amount of the payment;*
- (c) the date of the payment;*
- (d) sufficient information to identify the payment.*

- (2) A list prepared under subregulation (1) must be
(a) presented to the council at the next ordinary meeting of the council after the list is prepared; and
(b) recorded in the minutes of that meeting.

9. Regulation 13(A) comes into operation from 1 September 2023.

POLICY IMPLICATIONS

10. Expenditure for the period to 15 February 2024 has been incurred in accordance with the 2023/2024 budget parameters.

FINANCIAL IMPLICATIONS

11. Expenditure for the period to 15 February 2024 has been incurred in accordance with the 2023/2024 budget parameters.

LEGAL IMPLICATIONS

12. Nil

ENVIRONMENTAL CONSIDERATIONS

13. Nil

ALTERNATE OPTIONS

14. Nil

CONCLUSION

15. That the list of accounts have been authorised for payment under delegated authority.
16. 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.

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

CCS609: DELEGATED AUTHORITY REPORTS – 16 JANUARY 2024 to 15 FEBRUARY 2024

Proponent / Owner	: City of Albany
Attachments	: Executed Document and Common Seal Report
Report Prepared By	: PA to Mayor and Councillors (D Clark)
Authorising Officer:	: Chief Executive Officer (A Sharpe)

STRATEGIC IMPLICATIONS

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

RECOMMENDATION

**CCS609: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the Delegated Authority Reports 16 January 2023 to 15 February 2024 be RECEIVED.

CCS609: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR CRUSE
SECONDED: COUNCILLOR BAESJOU

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS609: AUTHORISING OFFICER RECOMMENDATION

THAT the Delegated Authority Reports 16 January 2023 to 15 February 2024 be RECEIVED.

BACKGROUND

2. In compliance with Section 9.49A of the *Local Government Act 1995* the attached report applies to the use of the Common Seal and the signing of documents under Council's Delegated Authority:
 - **Delegation: 006** – Sign Documents on Behalf of the City of Albany (Authority to Executive Deeds & Agreements and apply the Common Seal)
 - **Delegation: 009** – Provide Donations, Sponsorship, Subsidies & Authority to Apply for Grant Funding (Including the provision of sponsorship through the waiver of fees & charges)
 - **Delegation: 018** – Award Contracts (Supply of Equipment, Goods, Materials & Services)

**CCS610: ADOPTION OF THE BUDGET REVIEW FOR THE PERIOD
ENDING 31 JANUARY 2024**

Proponent : City of Albany
Attachments : Budget Review for the period ending 31 January 2024
Report Prepared by : Business Analyst/Management Accountant (D Harrison)
Authorising Officer : Executive Director Corporate & Commercial Services
(M Gilfellon)

STRATEGIC IMPLICATIONS

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

In Brief:

- Local governments are required to conduct a budget review between 1 January and last day in February each financial year in accordance with regulation 33A of the Local Government (Financial Management) Regulations 1996.
- This review is for the period ending 31 January 2024, and achieves a Balanced Budget (nil surplus or deficit as at 30 June 2024) inclusive of the proposed Budget Review allocations

RECOMMENDATION

**CCS610: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT the Budget Review for the period ending 31 January 2024 be ADOPTED.

CCS610: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR GRIMMER
SECONDED: COUNCILLOR TERRY

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS610: AUTHORISING OFFICER RECOMMENDATION

THAT the Budget Review for the period ending 31 January 2024 be ADOPTED.

BACKGROUND

2. The Department of Local Government, Sport and Cultural Industries (“DLGSCI”) recommends a review of the budget early in the financial year to amend carry forward projects from forecast to actual. This was completed by the City in September 2023 under agenda item CCS563.
3. Under legislation (regulation 33A(1) of the Local Government (Financial Management) Regulations 1996, Local Governments are required to conduct a budget review between 1 January and the last day of February each financial year.
4. Council adopted the FY2023/24 budget on 25 July 2023 (CCS545). The total adopted budget expenditure of \$142.2m was comprised of:
 - a. \$52.4m capital works;
 - b. \$1.8m debt reduction; and
 - c. \$88.0m in operating expenditure.
5. The current budget (inclusive of budget amendments already endorsed by Council throughout FY2023/24) has expenditure totalling \$146.4m.

DISCUSSION

6. Key elements of this proposed budget review include:
 - a. To fund the required \$1.348m to complete the proposed amendments is sourced as follows:
 - i. \$1.941m: Reduction in expenditure
 - ii. \$(0.485)m: Reduction in grants and general revenue.
 - iii. \$(0.108)m: Reduction in reserves funding required.The total of which is \$1.348m.
 - b. This Review Maintains Council's Budget in a Balanced Position as at 30 June 2024.
 - c. Total expenditure of \$145.8m in FY2023/24, comprised of:
 - i. \$54.0m capital works;
 - ii. \$1.8m debt reduction; and
 - iii. \$90.0m in operating expenditure.
7. A detailed copy of the budget review for the period ending 31 January 2024 is attached.
8. Budget adjustments thereafter will be brought to Council as an item to be discussed when required and actioned outside of this review.

GOVERNMENT & PUBLIC CONSULTATION

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

STATUTORY IMPLICATIONS

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

12. If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of 7 days and (a) its intention to do so; and (b) the date from which it is proposed the fees or charges will be imposed.
13. The voting requirement for this item is **Absolute Majority**.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

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

FINANCIAL IMPLICATIONS

16. Please refer to the attachment: Budget Review for the period ending 31 January 2024.

LEGAL IMPLICATIONS

17. Nil.

ENVIRONMENTAL CONSIDERATIONS

18. Nil.

ALTERNATE OPTIONS

19. For the period ending 31 January 2024, Council may consider to:
 - a. Adopt the Budget Review as recommended; or
 - b. Adopt the Budget Review with amendments (as specified by Council)

SUMMARY CONCLUSION

20. That the Responsible Officer’s Recommendation to adopt the Budget Review for the period ending 31 January 2024 be supported.

Consulted References	Adopted Budget 2023/2024 <i>Local Government Act 1995</i>
File Number	FM.BUG.12
Previous Reference	Adopted Budget 2023/2024 – OCM 25/07/2023 Resolution CCS545 Budget Review Period Ending 31 July 2023 - OCM 26/09/2023 Resolution CCS563 Budget Review Period Ending 31 October 2023 - OCM 19/12/2023 Resolution CCS585

CCS611: PROPOSED NEW LEASES – REGIONAL DEVELOPMENT AUSTRALIA GREAT SOUTHERN WA INC. – CO-OP BUILDING

Land Description	: Crown Reserve 42401, Lot 1411 on Deposited Plan 26101, the subject of Certificate of Title LR3123 Folio 712, Albany
Proponent	: Regional Development Australia – Great Southern WA Inc.
Owner	: Crown (City of Albany under Management Order)
Report Prepared By	: Team Leader Property & Leasing (T Catherall)
Authorising Officer:	: Executive Director Corporate & Commercial Services (M Gilfellow)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** Prosperity.
 - **Outcomes:** A strong, diverse and resilient economy with work opportunities for everyone.

Maps and Diagrams:



In Brief:

- Council is requested to consider two new leases to Regional Development Australia Great Southern WA Inc. (RDA) over the former Albany Co-operative Society Building (Co-op building) located within Crown Reserve 42401, Frederick Street.
- These leases will allow the continued use of the property as a Regional University Centre (RUC).
- Currently RDA holds two leases over this property. One lease for the ground floor and another for the first floor, due to expire on 22 April 2024.
- In October 2023, RDA formally requested the renewal of both leases on similar terms to support the ongoing use of the property as an RUC.
- It is recommended that the proposed new leases be approved.

RECOMMENDATION

**CCS611: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council APPROVES the two new leases to Regional Development Australia – Great Southern WA Inc. over Crown Reserve 42401, 46 Frederick Street, subject to the terms and conditions outlined in section 13 of this report.

CCS611: COMMITTEE RECOMMENDATION

MOVED: MAYOR STOCKS
SECONDED: COUNCILLOR BAESJOU

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS611: AUTHORISING OFFICER RECOMMENDATION

THAT Council APPROVES the two new leases to Regional Development Australia – Great Southern WA Inc. over Crown Reserve 42401, 46 Frederick Street, subject to the terms and conditions outlined in section 13 of this report.

BACKGROUND

2. The Co-op building is at 46 Frederick Street, Albany situated on Crown Reserve 42401 and holds significance on various heritage registers.
3. Extensive renovations were carried out in 2016 to restore the building's functionality.
4. Following an Expression of Interest process in 2017, Council approved a new lease and licence to RDA for an initial term of 3 years with an option for an additional 3 years.
5. In August 2020, RDA successfully secured Commonwealth funding to establish a RUC in Albany. RDA proposed utilising the ground floor of the Co-Op Building for this purpose.
6. Originally, RDA's initial lease term was due to expire April 2021. RDA expressed intent to exercise the option for an additional 3-year term, involving changes to remove the licence over the ground floor and facilitate a new lease to establish the Albany RUC.
7. In response Council at its meeting in October 2020, approved a variation to RDA's existing lease and granted a new lease for the ground floor to establish the RUC.
8. The new ground floor lease was approved at a peppercorn rent to support the Albany RUC.
9. Both leases (ground floor and first floor) are due to expire on 22 April 2024.

DISCUSSION

10. In October 2023, RDA requested to renew their two leases to accommodate the continued use of the RUC. The RUC recently expanded to the first floor, in addition to the ground floor, due to an increase in students using the centre.
11. RDA has requested to maintain the current split rent arrangement, where the first floor has a market valuation rent and the ground floor maintains a peppercorn rent.
12. Recognising RDA's investment and commitment in advancing tertiary education in Albany and surrounding region, the City expressed preliminary support for renewing and maintaining the existing rent arrangement, pending Council approval.
13. The table below summarises the key terms of the proposed leases:

Item	Details
Tenant	Regional Development Australia Great Southern WA Inc.
Land Description	Crown Reserve 42401, Lot 1411 on Deposited Plan 26101, the subject of Certificate of Title LR3123 Folio 712, Albany
Land Ownership	Crown (City of Albany under Management Order)
Lease Area	Ground floor - Approx. 160m ² First floor, carpark and surrounds - Approx. 906m ²
Permitted Use	Operate a Regional University Centre, in accordance with and limited by the Management Order over the land
Rent	<ul style="list-style-type: none"> • Ground floor - \$10 + GST per annum • First floor - \$26,800.00 plus GST per annum. Reviewed every three years by market valuation with CPI applied for intervening years
Term	3 + 3 years commencing 23 April 2024
Outgoings & Utilities	Tenant responsible for all outgoings & utilities, including insurance
Maintenance	<ul style="list-style-type: none"> • Tenant responsible for maintenance and repair of leased area • City responsible for all structural maintenance and damp response • All works subject to State Heritage provisions
Special Conditions	<ul style="list-style-type: none"> • Early termination if Federal Government funding ceases • Heritage Building Maintenance requirements • Acknowledgement of ground floor damp matters with right to terminate

14. RDA has agreed in-principle to the above terms, subject to Council and Minister for Lands approval.

GOVERNMENT & PUBLIC CONSULTATION

15. Section 3.58 of the Local Government Act 1995 (Act) prescribes the process by which the City can dispose of property. Leasing a property is considered a form of disposal.
16. Section 30 of the Local Government (Functions and General) Regulations 1996 outlines exemptions Section 3.58. These exemptions include disposal to organisations with charitable, benevolent, religious, cultural, educational, recreational, sporting or similar objectives.
17. Based on above criteria, the proposed lease falls under exemptions and is considered exempt from public notice requirements of 3.58.

STATUTORY IMPLICATIONS

18. Section 3.58 of the Local Government Act 1995 allows for the disposal of property, including leased or licensed land and buildings.
19. Section 18 of the Land Administration Act 1997 provides that individuals cannot assign, sell, transfer or otherwise deal with interests in Crown land, create, or grant an interest in Crown land without prior written approval from the Minister for Lands.
20. The proposed leases align with the requirements governing the disposal of property and dealings with Crown land.

POLICY IMPLICATIONS

21. The City’s Property Management (Leases and Licences) Policy aims to support the equitable access and effective management of City owned and managed properties in line with statutory procedures.
22. The Policy provides that commercial lease rents should be determined by market valuation.
23. RDA has proposed to continue paying a market rent for the first floor and a peppercorn rent for the ground floor as per the current arrangement. Council’s support for this request is sought considering the broader community benefit associated with the RUC.
24. All other terms of the lease agreements will be in line with the policy.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation: New leases not approved – perceived lack of support for tertiary education in region	Unlikely	Moderate	Medium	Seek to negotiate terms to Council satisfaction
Reputation: New leases not approved – RDA seeking another place for the RUC	Unlikely	Minor	Low	Seek to negotiate terms to Council satisfaction
Financial: New leases not approved – no rental income	Unlikely	Minor	Low	Seek to negotiate terms to Council satisfaction to retain income
Opportunity: To continue providing support for tertiary education and students studying online.				
Opportunity: The leases support the City’s Strategic Community Plan 2032 objective which aims to facilitate access to quality education, training and work opportunities.				
Opportunity: The leases support the City’s commitment to growing Albany as a university town				

FINANCIAL IMPLICATIONS

26. All costs for lease documentation will be covered by RDA.

LEGAL IMPLICATIONS

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

ENVIRONMENTAL CONSIDERATIONS

28. The Co-op building is listed on the State Heritage Register and City’s Local Heritage Survey, known as the Albany Co-operative Society Building (former).
29. RDA is aware of the building’s heritage status, and any proposed works will be subject to heritage approval. End of term lease provisions will consider any heritage requirements.

ALTERNATE OPTIONS

30. Council may:
 - a. Approve the leases to RDA; or
 - b. Support some elements of the new leases; or
 - c. Decline the lease requests.
31. Should Council decline the leases, finding a new location may be challenging due to the required space and budget constraints. This current location is conveniently located near the CBD, student accommodation and the UWA campus.
32. Should Council decline the request, RDA may need to reassess their options in providing a RUC in Albany. Consequently, impacting Albany’s identity as a university town.

CONCLUSION

33. RDA existing two leases over the Co-op Building expire on 22 April 2024.
34. RDA seeks to renew both leases on similar terms, ensuring the continued operation of the RUC in Albany.
35. The proposal requests two leases for a 3-year term with an option to extend for another 3 years, maintaining the existing split rent arrangement.
36. The ground floor rent is proposed at \$10 plus GST pa while the rent for first floor is determined by market rent, initially \$26,800.00 plus GST pa, as provided by a licensed Valuer.
37. RDA’s commitment aligns with the City’s objectives for education opportunities in Albany and surrounding region.
38. The proposed leases support the City’s Strategic Community Plan 2032, which aims to facilitate access to quality education, training and work opportunities.
39. It is recommended to approve the two new leases to RDA.

Consulted References	:	<ul style="list-style-type: none"> • Property Management (Lease and Licences) Policy • <i>Local Government Act 1995</i> • <i>Local Government (Functions and General) Regulations 1996</i> • <i>Land Administration Act 1997</i>
File Number	:	PRO416 & PRO462, A137623
Previous Reference	:	OCM 28/11/2017 – CCS004 OCM 27/10/2020 – CCS297

**CCS612: PROPOSED NEW LEASE – ROBERT VITALE AND
KEN OLDHAM – HANGAR SITE 34, ALBANY REGIONAL AIRPORT**

Land Description	: Portion of Lot 214 on Deposited Plan 402105 the subject of Certificate of Title Volume 2861 Folio 954, Drome.
Proponent	: Robert Vitale and Ken Oldham
Owner	: City of Albany
Report Prepared By	: Team Leader Property and Leasing (T Catherall)
Authorising Officer:	: Executive Director Corporate & Commercial Services (M Gilfellon)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** Prosperity.
 - **Outcomes:** A strong, diverse and resilient economy with work opportunities for everyone.

Maps and Diagrams:



In Brief:

- Council is requested to consider a new lease for Robert Vitale and Ken Oldham over vacant airport hangar site 34 at Albany Regional Airport.
- The purpose of the lease is to provide aircraft hangar space for 10 years with an option for an additional 10 years.
- The tenant proposes to construct a hangar on the site for aircraft storage.
- It is recommended that the proposed new lease be approved.

RECOMMENDATION

**CCS612: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council APPROVES a new lease over hangar site 34, located on portion of Lot 214, 35615 Albany Highway, Drome at Albany Regional Airport to Mr Robert Vitale and Mr Ken Oldham, subject to the terms and conditions outlined in section 7 in this report.

CCS612: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR TRAILL

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS612: AUTHORISING OFFICER RECOMMENDATION

THAT Council APPROVES a new lease over hangar site 34, located on portion of Lot 214, 35615 Albany Highway, Drome at Albany Regional Airport to Mr Robert Vitale and Mr Ken Oldham, subject to the terms and conditions outlined in section 7 in this report.

BACKGROUND

2. The City currently leases 27 hangar sites at the Albany Airport for aircraft hangarage and has two sites, 34 & 35, available for development.
3. In November 2023, a formal request was received from Mr Vitale and Mr Oldham seeking a lease for vacant site 34 to build a new hangar.
4. The City's Executive and Airport team support the lease request conditional on Mr Vitale and Mr Oldham securing Development Approval for the hangar construction.
5. Development Approval P2230516 was granted allowing to Mr Vitale and Mr Oldham to proceed with securing a lease to develop site 34.

DISCUSSION

6. As tenants, Mr Vitale and Mr Oldham will be obligated to comply with the *Civil Aviation Act 1998 (WA)* and the City's, Albany (Harry Riggs) Regional Airport & John Bell Terminal Conditions of Use publication.
7. The table below summarises the key terms of the proposed lease.

Item	Details
Tenant	Robert Vitale and Ken Oldham
Land Description	Portion of Lot 214 on Deposited Plan 402105 the subject of Certificate of Title Volume 2861 Folio 954, Drome
Lease Area	Approx. 327m ²
Land Ownership	City of Albany
Permitted Use	Aircraft Hangar for Aircraft Hangarage Only
Term of Lease	10 + 10 Years
Rent	Rental is to be determined by current market valuation and reviewed every three years with CPI applied in intervening years. Currently \$10.00 + GST per m ² of lease area per annum.
Outgoings	Tenant responsible for all outgoings & utilities, including insurance

Special Conditions	<ul style="list-style-type: none"> • Tenant must comply with the <i>Civil Aviation Act 1998 (WA)</i> and the City's, Albany (Harry Riggs) Regional Airport & John Bell Terminal Conditions of Use publication. • Tenant development works to be completed within two years of the development approval.
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8. Mr Vitale and Mr Oldham have agreed in principle to the above terms, subject to Council approval.

GOVERNMENT & PUBLIC CONSULTATION

9. Section 3.58 of the *Local Government Act 1995 (Act)* outlines the processes by which the City can dispose of property. For the purposes of this section, a lease is considered to be a disposal. The Act requires the following:
- A local government must give local public notice of the proposed lease inviting submissions from the public, for a period of two weeks.
 - Any submissions are to be considered by Council and their decisions are to be recorded on the minutes.
 - A local government can then proceed with the lease.

10. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Advertise the proposed lease in local newspapers and the City's website inviting submissions from the public.	Two weeks following Council endorsement of the agenda item.	Open	Section 3.58 of the <i>Local Government Act 1995</i> .

11. The City owns the land being disposed of in freehold title and therefore no approval from the Minister for Lands is required under the provisions of the *Land Administration Act 1997*.

STATUTORY IMPLICATIONS

12. Section 3.58 of the *Local Government Act 1995 (Act)* allows for the disposal of property, including leased/licensed land and buildings, including advertising requirements.
13. The lease proposal aligns with the requirements governing the disposal of property.

POLICY IMPLICATIONS

14. The City's Property Management (Leases and Licences) Policy aims to support equitable access and effective management of City owned and managed properties in line with statutory procedures.
15. The recommendation is consistent with the Policy.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputation: New lease not approved</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>Key terms of the lease have been agreed by both parties. Seek to negotiate terms to Council satisfaction.</i>
<i>Reputation: New lease not approved – no rental income</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>Seek to negotiate terms to Council satisfaction.</i>
<i>Opportunity: The lease supports the development of a vacant hangar site at tenant cost with no cost to the City.</i>				
<i>Opportunity: The lease supports the City’s Strategic Community Plan 2032 objective, which aims to improve access to marine, rail and aviation transport to support population growth, tourism and economic development.</i>				

FINANCIAL IMPLICATIONS

17. All costs for lease documentation will be covered by the tenant.

LEGAL IMPLICATIONS

18. The lease will be prepared by the City’s lawyers to ensure enforceable terms to minimise any risk to the City is appropriately mitigated.

ENVIRONMENTAL CONSIDERATIONS

19. There are no environmental considerations related to this report.

ALTERNATE OPTIONS

20. Council may:
- a. Approve the new lease;
 - b. Support some parts of the new lease although not in its entirety; or
 - c. Not agree to the new lease request.
21. Should Council decline the lease, the site will remain undeveloped until an Expression of Interest for lease of the vacant hangar site is initiated.

CONCLUSION

22. Mr Vitale and Mr Oldham have requested a new lease over hangar site 34 at the Albany Airport to construct a hangar for aircraft hangarage.
23. Development Approval for a new hangar was granted to Mr Vitale and Mr Oldham over hangar site 34 on 19 January 2024.
24. The City’s Airport team have been consulted and support the proposed new hangar lease.
25. The lease supports the City’s Strategic Community Plan 2032 objective which aims to improve access to marine, rail and aviation transport to support population growth, tourism and economic development.
26. It is recommended the proposed new lease be approved.

Consulted References	:	Property Management (Leases and Licences) Policy Albany (Harry Riggs) Regional Airport & John Bell Terminal Conditions of Use publication <i>Local Government Act 1995</i> <i>Land Administration Act 1997</i> <i>Civil Aviation Act 1998 (WA)</i>
File Number	:	PRO480 / A64802
Previous Reference	:	N/A

**CCS613: COMMUNICATIONS & ENGAGEMENT STRATEGY
PROGRESS REPORT – DECEMBER 2023**

Proponent / Owner	: City of Albany
Attachments	: City of Albany Communications & Engagement Strategy 2022-2023 Progress Report (December 2023)
Report Prepared By	: Community Development Coordinator (T Flett) Communications Coordinator (L Condon)
Authorising Officer:	: Executive Director Community Services (N Watson)

STRATEGIC IMPLICATIONS

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

In Brief:

- Note the City of Albany Communications & Engagement Strategy December 2023 progress report.

RECOMMENDATION

**CCS613: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the City of Albany Communications & Engagement Strategy progress report for December 2023 and its endorsement by the Communications & Engagement Advisory Group be NOTED.

CCS613: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TRAILL
SECONDED: COUNCILLOR GRIMMER

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 10-0

CCS613: AUTHORISING OFFICER RECOMMENDATION

THAT the City of Albany Communications & Engagement Strategy progress report for December 2023 and its endorsement by the Communications & Engagement Advisory Group be NOTED.

BACKGROUND

2. Council adopted the Communications & Engagement Strategy at the May 2019 OCM. The Strategy sets a clear direction for communication and engagement activities by the City. The Strategy is underpinned by an Action Plan.
3. The Strategy implementation and annual action plan is overseen by a Communications and Engagement Advisory Group comprising community representatives, Elected Members and City officers. The Advisory Group meets quarterly to review and endorse the progress report.

DISCUSSION

Progress Report

4. The Advisory Group met and endorsed the progress report for December 2023 (Q4) following its meeting on Thursday 14 December 2023.
5. Discussion was also held on the ongoing review of the Communications and Engagement Strategy and next steps.
6. The City's Community Development Coordinator and Communications Coordinator presented the revised draft strategy, based on feedback received from the Advisory Group and outlined the key draft changes and improvements.
7. The Advisory Group supported the proposed revised draft strategy to be circulated for further review and to provide new committee members with the opportunity to review the draft strategy before it is workshopped with Elected Members.
8. The City's Community Development Coordinator and Communications Coordinator presented a framework for discussion with the Advisory Group regarding the criteria for communications and engagement projects to be taken to the group for review. In its draft format, the framework was accepted in-principle.
9. Further discussion took place relating to a potential opportunity for Advisory Group members to report back to the group regarding community sentiment and feedback in relation to matters of community significance in the municipality. This was accepted as a valuable addition to the current meeting structure.
10. A comprehensive presentation and discussion on the strategy review is scheduled for the Elected Member Strategic Workshop in March.
11. This current report includes 65 actions, 45 which have been completed, 16 remain ongoing or underway, and 4 are on hold.

GOVERNMENT & PUBLIC CONSULTATION

12. Extensive community consultation was undertaken during the development of the Communications & Engagement Strategy and at the time achieved the highest reach of any engagement project undertaken by the City.
13. The progress report has been reviewed and supported by the Advisory Group, which includes members representing community.

STATUTORY IMPLICATIONS

14. Nil

POLICY IMPLICATIONS

15. This item aligns with the Council's adopted policy position: Community Engagement Policy.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Reputational: Community engagement expectations are not met due to budget, viability, funding agreements, safety, or legislative constraints.</i>	Likely	Moderate	High	Clearly define and communicate to community instances where project engagement is constrained by non-negotiable factors.
<i>Reputational: Communications or engagement activity is ad-hoc, untimely, inaccurate, or untargeted.</i>	Unlikely	Major	Low	Follow best practice engagement framework and provide timely, informative, and accurate communications to the community through effective channels as outlined in the Communications & Engagement Strategy.
<i>Operational: Some aspirations of the Strategy may not be fully realised due to budget, funding, or resource constraints.</i>	Possible	Moderate	Medium	Prioritise budget allocation where necessary and explore all options to achieve objectives.

FINANCIAL IMPLICATIONS

17. Nil.

LEGAL IMPLICATIONS

18. Nil.

ENVIRONMENTAL CONSIDERATIONS

19. Nil.

ALTERNATE OPTIONS

20. Nil.

CONCLUSION

21. The Communications & Engagement Strategy is overseen by an Advisory Group comprising the community, Elected Members and City staff.
22. Community representation on the Advisory Group ensures that community needs and priorities remain central to the implementation of the Communications and Engagement Strategy.
23. Regular progress reports of achievements against the Strategy are endorsed by the Advisory Group and submitted to Council for information. The progress report against the Strategy’s Action Plan for December 2023 (Q4) is submitted to Council for noting.
24. A review of the Communications and Engagement Strategy is underway, and Elected Members will receive a full briefing on progress and have further opportunity to provide input and feedback on the Strategy at the Elected Member Strategic Workshop in March.

Consulted References	:	City of Albany Communication and Engagement Strategy 2019 Council Policy – Community Engagement
File Number	:	CR.MEE.52
Previous Reference	:	OCM 28 November 2023, Resolution CCS579

DIS388: HOLIDAY HOUSE AT 56 KARRAKATTA ROAD, GOODE BEACH

Land Description	: Lot 601, 56 Karrakatta Road, Goode Beach
Proponent / Owner	: CS & EM Bastian
Attachments	: 1. BMP & BEEP 2. Development Plans 3. DFES technical advice February 2023 4. DFES technical advice December 2023 5. Property Management Plan 6. Schedule of Submissions
Supplementary Information & Councillor Workstation	: Customer Complaint Form Objection State Planning Policy 3.7 – Planning in Bushfire Prone Areas Guidelines for Planning in Bushfire Prone Areas V1.4
Report Prepared By	: Senior Planning Officer (D Ashboth)
Authorising Officer:	: 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 its decision, Council is obliged to draw conclusion from its adopted *Albany Local Planning Strategy 2019* (the Planning Strategy) and *Strategic Community Plan – Albany 2032*.
3. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** People
 - **Outcome:** A safe community
 - **Pillar:** Planet
 - **Outcome:** A resilient community that can withstand, adapt to, and recover from natural disasters.
 - **Pillar:** Prosperity
 - **Outcome:** A highly sought-after tourist destination.

Maps and Diagrams:



In Brief:

- Council is requested to consider an application for a Holiday House at No. 56 (Lot 601) Karrakatta Road, Goode Beach.
- The application is consistent, or capable of consistency (through imposition of conditions) with Local Planning Scheme No.2 and the City of Albany Holiday Accommodation Local Planning Policy requirements.
- The proposed Holiday House does not achieve objectives 5.1, 5.2 and 5.3 of State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP3.7).
- The proposed Holiday House also does not meet the performance solutions nor the intent of Element 5: Vulnerable Tourism Land Uses contained within the Guidelines for Planning in Bushfire Prone Areas (Bushfire Guidelines) relating to Siting and Design (P5iv) nor Vehicle Access (P5v).
- The City’s consideration of the proposal, including the documentation submitted by the applicant and advice provided by DFES are discussed in detail within the report.
- Council is now requested to consider the matter, specifically in relation to whether the proposal is an acceptable outcome, taking into account the Objectives of SPP3.7 and the Elements and Objectives contained within v1.4 of the Guidelines for Planning in Bushfire Prone Areas.

ADDENDUM

Post the Committee meeting, Officers have prepared the following comment on the Committee Recommendation to APPROVE the application.

Officer Comment:

In addition to the comprehensive assessment outlined in this document, officers assert that the Bushfire Management Plan (BMP) fails to comply with the requirements of SPP3.7.

As highlighted in the BMP, the proposed development does not fall within the definition of "Minor Development", yet an assessment is conducted based on that very definition. Furthermore, since this development constitutes a new “vulnerable land use”, as clearly defined in SPP3.7, and is not “unavoidable development”, the legacy provisions do not apply, and the precautionary principle is not being adhered to.

Additionally, and specifically, vulnerable land uses in BAL-40 or BAL-FZ (this application) will not be supported in SPP3.7 unless they are “unavoidable development”.

The criteria for “minor development” may be satisfied if a "safer place" is established within the precinct in the future to allow a different assessment methodology.

The decision-makers are obligated to consider State Planning Policy with "Due Regard".

The “Due Regard” that a decision maker (in this case Council) should afford to SPP3.7 in its quasi-judicial capacity is clearly set out in the SAT case O’NEILL and CITY OF JOONDALUP [2021] WASAT 107.

This case also establishes a pertinent test for exercising discretion in evaluating applications of this nature which includes the following seven points listed in clause 2.5. of the guidelines;

- The intent, objectives and policy measures of SPP 3.7 and the guidelines;
- The need to apply the precautionary principle;
- Compliance with any provisions of the local planning scheme or local planning policy relating to bushfire;
- Whether the bushfire hazard can be reduced to an acceptable level;
- Whether the proposed measures can be practically implemented and maintained for the life of the development or land use;
- Whether the proposal demonstrates an improvement or innovation in bushfire risk management that improves the bushfire outcome on the site and surrounds; and
- Advice received from relevant referral agencies.

Officers believe that this application does not meet all these criteria. Council should consider this test in making a final decision on the matter.

RECOMMENDATION

**DIS388: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council:

- (1) ENDORSES the Bushfire Management Plan submitted by the Applicant.**
(2) RESOLVES to issue a notice of determination for APPROVAL for a Holiday House at Lot 601, 56 Karrakatta Road, Goode Beach, subject to the following conditions:

- 1. All development shall occur in accordance with the stamped, approved plans referenced P2210704 and dated 26 March 2024, 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. Prior to commencement of operation, an updated vehicular parking and access plan shall be submitted for approval and be subsequently constructed and fully implemented to the satisfaction of the City of Albany.**

Advice Condition 3:

- Car parking and access is to be designed in accordance with Australian Standard 2890.***
 - The plan shall clearly indicate the dimensions and intended use of all parking bays (eg disabled bay, loading bay etc), access areas, line marking, kerbing and sealing.***
 - All trafficable areas to be suitably sealed, to the satisfaction of the City of Albany.***
 - All parking is to be onsite with no parking permitted outside of property boundaries.***
 - Three (3) parking bays are required for up to eight (8) guests under the City of Albany Holiday Accommodation Local Planning Policy.***
 - Stormwater runoff attenuation from carparking and driveway should be detailed.***
- 4. Prior to commencement of operation, an updated property management plan shall be submitted to and approved by the City of Albany. The updated property management plan shall address minor inconsistencies relating to carparking numbers, property management and implementation of measures required under the approved Bushfire Management Plan including:**
 - Implementation of accommodation closures on extreme and catastrophic fire days and alternative arrangements for guests and their belongings on these days.***
 - Location of local property manager and details as to how they will educate guests on the bushfire risk and measures to be undertaken in the event of a bushfire.***
 - Details as to how the local property manager will assist with occupant evacuation in the event of a bushfire.***
 - 5. The updated property management plan shall also include and detail protocols to enhance situational awareness, minimise risks and contribute to a safer environment for guests, including:**
 - Provide clear written materials and visual aids during check-in to enhance guest awareness.***
 - Mandatory Check-In Briefings: Conduct mandatory briefings for all guests upon check-in, focusing on bushfire safety measures and emphasising key evacuation details.***

- **Guest Safety Orientation:** Develop and implement a comprehensive orientation program for guests, including information on bushfire risks, evacuation routes and emergency procedures.
 - **Guest Acknowledgement:** Implement a booking and check-in process requiring guests to acknowledge and understand the bushfire risks through a signed agreement or electronic acknowledgement.
 - **Technology Alerts:** Utilise available technology for real-time updates and alerts to guests regarding bushfire risks through mobile apps or automated messaging systems.
 - **On-Call Safety Personnel:** Employ/contract an emergency responder to assist and guide guests during bushfire events.
6. The operation of the holiday accommodation shall be in accordance with the approved management plan, which shall be reviewed and updated at the time of any change of ownership or management.
 7. Prior to commencement of operation, information is to be provided to demonstrate that the measures contained in Section 6; Table 12 of the bushfire management plan dated 19 September 2023 by BioDiverse Solutions required 'prior to use' have been implemented. This information should include a completed 'Certification by Bushfire Consultant' from the bushfire management plan.
 8. The measures and actions identified in the approved Bushfire Management Plan and Bushfire Emergency Evacuation Plan shall be implemented and maintained in perpetuity, to the satisfaction of the City of Albany.
 9. Prior to commencement of operation, an easement in accordance with Section 195 of the Land Administration Act 1997 specifying access rights for vegetation maintenance in favour lot 601 Karrakatta Road shall be placed on the certificate(s) of title of lot 602 Karrakatta Road. The easement documentation shall detail the management activity within the easement area by the owners of lot 601. Notice of this easement(s) is to be included on the diagram or plan of survey (deposited plan). The easement is to state as follows: *"Vegetation to be maintained in a low fuel state all times"*
 10. Prior to commencement of operation, the asset protection zone indicated under 'Figure 5 Works Program of the approved Bushfire Management Plan shall be provided and maintained around the holiday house hereby approved, to the satisfaction of the City of Albany.
 11. A notification, pursuant to Section 165 of the Planning and Development Act 2005, is to be placed on the certificate(s) of title of the lot(s), advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:
"This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and is subject to a Bushfire Management Plan. Additional planning, building and management requirements may apply to this land"
 12. No goods or materials shall be stored, either temporarily or permanently, in the parking areas or in access driveways, unless otherwise agreed in writing by the City of Albany.
 13. The development hereby approved shall not prejudicially affect the amenity of the neighborhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.
 14. Sign(s) shall not be erected on the lot without the prior approval of the City of Albany.

Advice Condition 14:

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

- 15. The holiday house hereby approved shall only be used for short stay accommodation, with any single tenant permitted to stay for no more than three months in any twelve month period.**
- 16. Each bedroom utilising beds shall have a floor space of not less than four square metres per person; each bedroom utilising bunks shall have a floor space of not less than 2.5 square metres per person; and a maximum of eight (8) persons are permitted to stay on the premises at any one time.**
- 17. The operator or manager of the premises hereby approved for holiday accommodation are to provide and maintain a register of all people who utilise the holiday accommodation during the year to the satisfaction of the City of Albany. A receipt book must be kept available for inspection by the City of Albany.**

Reason:

It is considered that the Bushfire Management Plan submitted by the applicant meets the requirements of SPP 3.7 and its associated performance criteria as detailed in the Guidelines for Planning in Bushfire Prone Areas, and as such there are no grounds for refusing this application on that basis.

DIS388: ALTERNATE MOTION BY COUNCILLOR SUTTON

MOVED: COUNCILLOR SUTTON

SECONDED: COUNCILLOR BROUGH

THAT Council:

- (1) ENDORSE the submitted Bushfire Management Plan.**
- (2) Resolves to issue a notice of determination for APPROVAL for a Holiday House at Lot 601, 56 Karrakatta Road, Goode Beach, subject to the following conditions:**
 - 1. All development shall occur in accordance with the stamped, approved plans referenced P2210704 and dated 26 March 2024, 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. Prior to commencement of operation, an updated vehicular parking and access plan shall be submitted for approval and be subsequently constructed and fully implemented to the satisfaction of the City of Albany.**

Advice Condition 3:

- Car parking and access is to be designed in accordance with Australian Standard 2890.***
- The plan shall clearly indicate the dimensions and intended use of all parking bays (eg disabled bay, loading bay etc), access areas, line marking, kerbing and sealing.***
- All trafficable areas to be suitably sealed, to the satisfaction of the City of Albany.***
- All parking is to be onsite with no parking permitted outside of property boundaries.***
- Three (3) parking bays are required for up to eight (8) guests under the City of Albany Holiday Accommodation Local Planning Policy.***
- Stormwater runoff attenuation from carparking and driveway should be detailed.***

4. Prior to commencement of operation, an updated property management plan shall be submitted to and approved by the City of Albany. The updated property management plan shall address minor inconsistencies relating to carparking numbers, property management and implementation of measures required under the approved Bushfire Management Plan including:
 - Implementation of accommodation closures on extreme and catastrophic fire days and alternative arrangements for guests and their belongings on these days.
 - Location of local property manager and details as to how they will educate guests on the bushfire risk and measures to be undertaken in the event of a bushfire.
 - Details as to how the local property manager will assist with occupant evacuation in the event of a bushfire.
5. The updated property management plan shall also include and detail protocols to enhance situational awareness, minimise risks and contribute to a safer environment for guests, including:
 - Provide clear written materials and visual aids during check-in to enhance guest awareness.
 - Mandatory Check-In Briefings: Conduct mandatory briefings for all guests upon check-in, focusing on bushfire safety measures and emphasising key evacuation details.
 - Guest Safety Orientation: Develop and implement a comprehensive orientation program for guests, including information on bushfire risks, evacuation routes and emergency procedures.
 - Guest Acknowledgement: Implement a booking and check-in process requiring guests to acknowledge and understand the bushfire risks through a signed agreement or electronic acknowledgement.
 - Technology Alerts: Utilise available technology for real-time updates and alerts to guests regarding bushfire risks through mobile apps or automated messaging systems.
 - On-Call Safety Personnel: Employ/contract an emergency responder to assist and guide guests during bushfire events.
6. The operation of the holiday accommodation shall be in accordance with the approved management plan, which shall be reviewed and updated at the time of any change of ownership or management.
7. Prior to commencement of operation, information is to be provided to demonstrate that the measures contained in Section 6; Table 12 of the bushfire management plan dated 19 September 2023 by BioDiverse Solutions required 'prior to use' have been implemented. This information should include a completed 'Certification by Bushfire Consultant' from the bushfire management plan.
8. The measures and actions identified in the approved Bushfire Management Plan and Bushfire Emergency Evacuation Plan shall be implemented and maintained in perpetuity, to the satisfaction of the City of Albany.
9. Prior to commencement of operation, an easement in accordance with Section 195 of the Land Administration Act 1997 specifying access rights for vegetation maintenance in favour lot 601 Karrakatta Road shall be placed on the certificate(s) of title of lot 602 Karrakatta Road. The easement documentation shall detail the management activity within the easement area by the owners of lot 601. Notice of this easement(s) is to be included on the diagram or plan of survey (deposited plan). The easement is to state as follows: "*Vegetation to be maintained in a low fuel state all times*".

10. Prior to commencement of operation, the asset protection zone indicated under 'Figure 5 Works Program of the approved Bushfire Management Plan shall be provided and maintained around the holiday house hereby approved, to the satisfaction of the City of Albany.

11. A notification, pursuant to Section 165 of the Planning and Development Act 2005, is to be placed on the certificate(s) of title of the lot(s), advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram or plan of survey (deposited plan).

The notification is to state as follows:

"This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and is subject to a Bushfire Management Plan. Additional planning, building and management requirements may apply to this land"

12. No goods or materials shall be stored, either temporarily or permanently, in the parking areas or in access driveways, unless otherwise agreed in writing by the City of Albany.

13. The development hereby approved shall not prejudicially affect the amenity of the neighborhood by, but not limited to, the emission of noise, vibration, smell, smoke or dust.

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

Advice Condition 14:

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

15. The holiday house hereby approved shall only be used for short stay accommodation, with any single tenant permitted to stay for no more than three months in any twelve month period.

16. Each bedroom utilising beds shall have a floor space of not less than four square metres per person; each bedroom utilising bunks shall have a floor space of not less than 2.5 square metres per person; and a maximum of eight (8) persons are permitted to stay on the premises at any one time.

17. The operator or manager of the premises hereby approved for holiday accommodation are to provide and maintain a register of all people who utilise the holiday accommodation during the year to the satisfaction of the City of Albany. A receipt book must be kept available for inspection by the City of Albany.

CARRIED 5-4

Record of Vote:

Against the Motion: Mayor Stocks, Deputy Mayor Councillor Terry and Councillors Cruse and Grimmer.

Councillor Sutton foreshadowed an alternative motion.

DIS388: AUTHORISING OFFICER RECOMMENDATION

MOVED: COUNCILLOR TERRY

SECONDED: MAYOR STOCKS

THAT Council resolves to issue a notice of determination for REFUSAL for a Holiday House at Lot 601, 56 Karrakatta Road, Goode Beach, for the following reasons:

1. The proposal does not satisfy the following matters to be considered as identified in Schedule 2, Part 9, Clause 67 of the Planning and Development (Local planning Schemes) Regulations 2015, namely:
 - a) The objectives and provisions of State Planning Policy 3.7 Planning in bushfire prone areas, specifically:
 - i. Objectives 5.1, 5.2 and 5.3 and Policy measure 6.6 of SPP3.7; and
 - ii. The proposal does not meet the performance solutions nor the intent of Element 5: Vulnerable Tourism Land Uses contained within the Guidelines for Planning in Bushfire Prone Areas (v1.4) associated with the State Planning Policy 3.7 – Planning in bushfire prone areas. Specifically the performance solutions outlined under the BMP dated 19/09/2023 do not satisfactorily demonstrate in the opinion of the local government, in consultation with DFES, appropriate solutions for Siting and Design (P5iv) nor Vehicle Access (P5v).
 - b) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk; and
 - c) the suitability of the land for the development taking into account the possible risk to human health or safety.

LOST 4-5

Record of Vote

For the Motion: Mayor Stocks, Deputy Mayor Councillor Terry, Councillors Cruse and Grimmer.

BACKGROUND

Site details

Local Planning Scheme:	City of Albany Local Planning Scheme No. 2
Zone:	Residential (Site Specific Provisions 19)
Lot Size:	Site Area 4006m ²
LPS2 Use Class and Permissibility (Table 3):	Holiday House - A
Existing Land Use:	Single House
Bushfire Prone Area:	Yes
Local Planning Policies:	Holiday Accommodation
Other Relevant Plans and Policies:	State Planning Policy 3.7 – Planning in bushfire prone areas & associated guidelines

4. The applicant initially contacted the City in September 2021 to discuss requirements for a change in use application from 'Single House' to 'Holiday House'. The applicant was advised of the additional bushfire requirements that apply to the lot (amongst other considerations) and was directed to a bushfire consultant.
5. The application for 'Holiday House' at 56 Karrakatta Road was originally lodged with the City in December 2021 and in the same month, the applicant was advised that the application is unlikely to be supported due to the identified BAL rating of BAL-FZ (flame zone) resulting in non-compliance with SPP3.7 and associated Bushfire Guidelines. The applicant was subsequently given the opportunity to withdraw the application or proceed to a full assessment.
6. The applicant confirmed they wished to proceed with a full assessment and later that month, the application was referred to adjoining landowners and the Department of Fire and Emergency Services (DFES) for comment.
7. Following further discussions with the applicant, the application was placed on hold in January 2022 pending the provision of a Bushfire Emergency Evacuation Plan, an updated BAL assessment and a revised parking plan.
8. In the time that followed the application being placed on hold, the applicant began efforts (in consultation with their bushfire consultant and neighbours) to reduce the BAL-rating in an attempt to achieve the deemed-to-comply criteria relating to Element 5(P5iv) of the Bushfire Guidelines. However, despite their efforts, the applicant was unable to reduce the BAL rating below BAL-FZ, even with the cooperation of an adjoining landowner.
9. At the same time, the City sought advice from the Department of Planning, Lands and Heritage as custodians of SPP3.7 and associated Guidelines to ensure the City's interpretation of the documents was correct. The City was advised to refer to the DFES for technical information.
10. A referral response was received from the DFES on 15th February 2022 (refer attachment 1) which advised the application does not comply with the bushfire protection criteria within the Bushfire Guidelines and was therefore not supported.
11. Following the DFES advice, the applicant was again advised that the City is unable to support the application as currently proposed. The applicant subsequently requested a site meeting to discuss the outstanding bushfire matters, which was held on 25 February 2022, with City officers, the applicant and their bushfire consultant in attendance.
12. At the onsite meeting, when the City was asked how the application could move forward despite the DFES advice, City officers suggested that they may wish to consider exploring the preparation of a risk assessment in accordance with SPP3.7 Guidelines, which provides a potential alternative pathway via a performance principle-based solution to demonstrate the proposal can address the outstanding bushfire considerations.
13. However, City officers also stressed at the time that this avenue would not guarantee a positive determination of the application, and further assessment and referral to DFES likely to be required.
14. The applicant and bushfire consultant indicated they would investigate the risk assessment approach suggested by City officers and would forward the document to the City once completed.
15. Following the meeting in February 2022 and early December 2022, the City contacted the applicant on multiple occasions, seeking an update on the progress with the preparation of a risk assessment, with the applicant indicating that it had still not been completed.
16. The bushfire consultant then contacted the City in mid-December 2022 seeking clarification on City officers suggestion for the applicant to consider preparing a risk assessment to support the development proposal.

17. The consultant indicated that the document was more appropriate for a large-scale tourism development and suggested that an updated BMP and (Bushfire Emergency Evacuation Plan) BEEP in accordance with the performance principles in V1.4 of the Guidelines be provided in its place.
18. The City agreed and advised that upon receipt of these updated documents, the City would follow the required processes including re-referral to DFES, with a decision to be made based on the updated documentation and revised comments from DFES.
19. In September 2023 the applicant was again contacted as the required documentation had not been provided and the application could not be left on hold indefinitely.
20. They were also reminded that they did not have the necessary approvals to operate as a Holiday House following receipt of a complaint by a nearby landowner.
21. The applicant provided the requested documents at the end of October 2023. This information was then referred to DFES for a second round of comments and the assessment of the application was recommenced.
22. A second response was received from DFES in December 2023 with similar advice to the first referral response (refer attachment 2).
23. The applicant was again advised that the application cannot be supported. A meeting was arranged at the applicant's request to clarify the reasons for the anticipated refusal and discuss next steps. This meeting was also attended by the applicant's legal representative.
24. Following this meeting the applicant advised they wished to have the application determined by Council at the next available Ordinary Council Meeting, rather than under officer delegation.
25. It should be noted that this Holiday House has been operating without the necessary approvals for the duration of the application process (more than 2 years).
26. The City's Compliance and Planning team have advised the applicant that they do not have the necessary approvals to operate as a Holiday House.
27. The applicant had attempted to get their accommodation registered with the Albany Visitor's Centre. The Visitor Centre Team undertook their due diligence and checked with the Planning Department.
28. The Compliance Team advised that the Holiday House does not have the necessary approvals and as such any public liability insurances may be invalid.
29. It should also be noted that a similar application for a 'Holiday House' on the same street as this application was refused under officer delegation due to non-compliance with SPP 3.7 and the same aspects of Element 5 as this application.

DISCUSSION

Holiday Accommodation Local Planning Policy and Local Planning Scheme No.2

30. Applications for a change in land use to Holiday House require assessment against the City of Albany Holiday Accommodation Local Planning Policy (Holiday Accommodation Policy).
31. The Holiday Accommodation Policy requires the preparation of a Management Plan (attached), setting out on-going management procedures and methods to ensure the amenity of adjoining/nearby land uses are maintained.
32. The Management Plan has been reviewed by officers and is generally considered acceptable for this property, subject to some modifications to correct inconsistencies and address the implementation of measures required under the BMP.
33. As required under cl.64 of the *Deemed Provisions for Local Planning Schemes*, the application (including Management Plan) was referred to adjoining landowners for comment.

34. One (1) objection to the Holiday House was received at the close of advertising. Details of the objection, along with the officer response can be found within the Schedule of Submissions.
35. In accordance with the Holiday Accommodation Policy, where a neighbour objects to a proposal for Holiday Accommodation, the application is to be considered in view of the following:
 - a) The proximity of the holiday accommodation to key tourism attractions such as the beach or town centre/activity centre (typically a 5 minute walk – 400m); and/or
 - b) Location within a street(s) which facilitates safe, efficient and pleasant walking, cycling and driving; and/or
 - c) Location compatible with Figure A (refer to attachment - the areas illustrated are within close proximity to the town centre and popular swimming beaches); and
 - d) A management plan designed to facilitate community concerns.
36. It is considered the application meets the above-mentioned criteria for the following reasons:
 - a) The proposal is located in close proximity to Goode Beach as well as key tourist attractions such as Albany's Historic Whaling Station, the Gap and Frenchman Bay.
 - b) See above.
 - c) The property is located within a Preferred Area for Holiday Accommodation (Figure A)
 - d) An acceptable management plan has been prepared for the property to mitigate amenity impacts of the proposed Holiday House (refer above).
37. The application proposes accommodation for up to 8 guests which would require provision of three (3) designated car parking bays (1 per 3 guests) under the Holiday Accommodation Policy. Although the applicant has indicated seven (7) carparking bays on the site plan, some of these bays do not meet Australia Standards requirements.
38. Despite the above, there appears to be ample space on-site for the provision of at least 3 bays (likely more), therefore it is considered parking requirements could easily be met via the provision of a detailed car parking plan.
39. The application would be consistent with the remaining provisions of the Holiday Accommodation Policy subject to the imposition of standard conditions.
40. The application is consistent with the objectives of the Holiday Accommodation Policy being *'To encourage good quality, well managed holiday accommodation for use by short-term visitors generally in locations that will enhance the tourism experience while minimising potential impacts on adjoining residents.'*
41. The application is also consistent with the applicable provisions of LPS2, including the objectives of the Residential Zone.

Bushfire

42. A Bushfire Management Plan (BMP) and Bushfire Emergency Evacuation Plan (BEEP) were required to be prepared to accompany the application given the location in a bushfire prone area and is seeking a change of use to a vulnerable land use.
43. A vulnerable land use includes tourism or recreational land uses which involve visitors who are unfamiliar with the surroundings and/or where they present evacuation challenges. This reflects the increase in risk from a permanent residential use.
44. BMP's and BEEP's for vulnerable land uses are required to be completed by a Level 3 Bushfire practitioner under State Planning Policy 3.7 Planning in Bushfire Prone Areas and associated Guidelines version 1.4. These documents have subsequently been co-signed by a BPAD Level 3 Practitioner (Erika Dawson from Integrated Consulting).
45. The BMP is required to address the criteria contained within Element 5 of the Guidelines for Planning in Bushfire Prone Areas (the Guidelines) specifically those applying to 'Bed and Breakfast and Holiday Houses' outside of a residential built-out area.

46. The Guidelines define a 'residential built-out area' as:
"A locality serviced with reticulated water and is within or contiguous with an urban area or town (or similar), which incorporates a suitable destination."
47. A Suitable Destination is defined as:
"An area that is not classified as bushfire prone on the Map of Bush Fire Prone Areas, or is greater than 100 metres from classified vegetation as per AS 3959 and can provide shelter during a bushfire event."
48. Given Goode Beach is unable to achieve the definition of a residential built-out area (with the exception of a reticulated water supply) the application must be assessed against the more stringent criteria for land outside of a residential built-out area.
49. The BMP satisfactorily addresses the bushfire criteria relating to Provision of Water (P5vi) however, fails to achieve the criteria relating to Siting and Design (P5iv) and Vehicle Access (P5v).
50. In relation to Siting and Design (P5iv), the acceptable solutions contained within the Guidelines require an asset protection zone of sufficient size to ensure the radiant heat impact of a bushfire does not exceed BAL-29.
51. The BMP has indicated the property is unable to achieve a BAL rating below BAL-FZ (flame zone) which is the highest possible BAL rating.
52. Given the application was unable to achieve the acceptable solution, the BMP proposed assessment against the associated performance principle as follows:
Habitable buildings are sited and designed to:
- *Minimise clearing of existing vegetation; and*
 - *Provide hazard separation between classified vegetation and a development site, that is managed in perpetuity, to prevent the spread of fire and direct flame contact to the building.*
53. The application proposes to address the performance criteria through the following:
- Upgrading the building to limit ember ingress
 - Providing a nominated water tank for bushfire purposes
 - Closure on extreme and catastrophic fire days
 - Managing all vegetation on site and some on the neighbouring property to the west.
54. Whilst it can be argued that the above measure may increase safety in a bushfire event, these measures do not specifically address the performance criteria contained within the Guidelines.
55. Even if all the vegetation on the lot were to be managed (which would not meet the requirement to minimise vegetation clearance), the property would still be located within the 'flame zone' which entails direct flame contact with the building in a bushfire event.
56. This position was supported by the DFES referral response which noted that 'The additional mitigation measures do not improve the hazard separation for the building, and therefore do not demonstrate compliance with the performance principle'.
57. It should also be noted that although the BMP proposed clearance and maintenance of the adjoining lot through a notification on title (which staff raise concerns and have issues with) this would still not reduce the BAL-rating below BAL-FZ. These measures would only reduce the BAL-rating to the western face of the building, if they are able to be implemented.
58. The subject site is also located approximately 11m above the lots adjoining the subject site to the north which contain 'Class A Forest' designated vegetation.
59. Buildings located upslope from existing vegetation are considered to be in more danger in a bushfire event than those located on a downslope or on level land.

60. In relation to Vehicle Access (P5v), the acceptable solutions contained within the Guidelines require (amongst other attained criteria):
- Public road access is to be provided in two different directions to at least two different suitable destinations; and
 - All public roads to be through roads. No-through roads are not recommended, however if required shall not be more than 200m in length for areas with an extreme bushfire hazard level (BHL).
61. Goode Beach is in a location on a peninsula, the entirety of which is declared bushfire prone.
62. Frenchman Bay Road is the only access in and out of the locality, so applications in Goode Beach are unable to achieve the acceptable Vehicle Access criteria of the Bushfire Guidelines.
63. There is no option to achieve the required public road access in two different directions to at least two suitable destinations.
64. This particular proposal is also located at the end of a no through road with a length of approximately 340m and an extreme BHL.
65. The application therefore proposes assessment against the associated performance principle as follows:
- The design and capacity of vehicular access and egress is to adequately provided for the occupants to evacuate to a suitable destination before a bushfire arrives to the site, whilst allowing emergency service personnel to attend the site.*
66. The application proposes to address the performance criteria through the following:
- Closure on extreme and catastrophic fire days;
 - Local managers available to assist with the evacuation of the site, if necessary;
 - Local managers to educate guests on bushfire risk and measures to be undertaken in the event of a bushfire;
 - BEEP providing for early evacuation of the site to Albany Leisure and Aquatic Centre.
67. In response to this proposal, DFES have advised that this approach does not demonstrate how the performance principle has been met which requires vehicle access to adequately provide for the occupants to evacuate to a suitable destination before the bushfire arrives to the site, whilst allowing emergency services personnel to attend the site.
68. Both DFES and City officers are of the opinion that compliance cannot be achieved at this location. It is noted that the change of use is within an established building and located at the end of a single access road.
69. It is considered that the limitations associated with the access arrangements in conjunction with the risk that the access could be cut off in the event of a bushfire and the potential for landscape scale bushfire in this area makes the site unsuitable for vulnerable uses.
70. In addition to the specific assessment criteria contained within Element 5 of the Bushfire Guidelines, the overall intent of Element 5 is *'To provide bushfire protection for tourism land uses relevant to the characteristics of the occupants and/or the location, to preserve life and reduce the impacts of bushfire on property and infrastructure.'*
71. In their referral response, DFES have advised that the topography, type and extent of bushfire prone vegetation may result in landscape-scale destruction as it interacts with the bushfire hazard on and close to the site.
72. In conjunction with the remoteness of the site and limited access options, it is considered that development of a vulnerable land use at this location does not comply with the overarching intent of Element 5 of the Bushfire Guidelines.

73. It is considered that approving the application would also be inconsistent with SPP3.7 specifically in relation to:

a. Policy Objectives:

5.1 Avoid any increase in the threat of bushfire to people, property and infrastructure. The preservation of life and the management of bushfire impact are paramount.

5.2 Reduce vulnerability to bushfire through the identification and consideration of bushfire risks in decision-making at all stages of the planning and development process.

5.3 Ensure that higher order strategic planning documents, strategic planning proposals, subdivision and development applications take into account bushfire protection requirements and include specified bushfire protection measures; and

b. 6.6 Vulnerable or high-risk land uses

6.6.2 In areas where BAL-40 or BAL-Flame Zone (FZ) applies

Subdivision and development applications for vulnerable or high-risk land uses in areas of BAL-40 or BAL-Flame Zone (FZ) will not be supported unless they comply with policy measures 6.6.1 and 6.7.2.

74. In relation to policy measure 6.6.2 listed above, policy measure 6.6.1 relates to BAL levels at BAL-29 or below (not applicable) whilst policy measure 6.7.2 relates to unavoidable development which the guidelines state may include development such as critical state infrastructure (railway lines, communication towers), development associated with preservation of historic or cultural sites or emergency services such as evacuation centres, fire stations or policy and ambulance facilities (not considered applicable).
75. The land use is considered an 'A' use, which is a use not permitted unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64 of the deemed provisions.
76. As such, the applicant does not have a right to use the land for this purpose unless otherwise approved by the local government, taking into consideration the relevant assessment framework.
77. Despite the identified need for more luxury tourist accommodation in the City of Albany, the desirable location and the high-quality, unique residence, the application is unable to achieve the requirements of State Planning Policy 3.7 and associated Bushfire Guidelines.
78. It is therefore considered introducing a vulnerable land use to this location would result in unacceptable risk to the safety of occupants.
79. Courts have previously emphasised the duty of care owed by local authorities to prevent harm, even if they lack a specific statutory duty.
80. It is recommended that Council resolves to issue a notice of determination for refusal for a Holiday House at Lot 601, 56 Karrakatta Road, Goode Beach, for the above-mentioned reasons.

GOVERNMENT & PUBLIC CONSULTATION

81. The application was advertised to adjoining landowners for a period of 30 days (extended due to Christmas and the New Year period) with adjoining landowners directly notified by letter.
82. One (1) response was received objecting to the application.

83. The comments, including officer response are provided in the attached 'Schedule of Submissions'.

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Mail out	21/12/2021 to 20/01/2022	1 submission received	Yes

84. The application was also referred to the Department of Fire and Emergency Services (DFES) for comment. The comments have been included as an attachment to this item and summarised in the Discussion section above.

STATUTORY IMPLICATIONS

85. This application was submitted over two (2) years ago under Local Planning Scheme No.1 (LPS1). Whilst LPS1 has now been superseded by Local Planning Scheme No.2 (LPS2) and the zoning of the site has changed from Special Residential to Residential, the Scheme planning framework is not much different in terms of process. The most relevant planning consideration for this proposal is the State Planning Policy 3.7 and associated Bushfire Guidelines, which have not changed.
86. The subject site is located within the Residential Zone of the City of Albany Local Planning Scheme No.2. 'Holiday House' is listed as an 'A' use within the Residential Zone which means the use is not permitted unless the local government has exercised its discretion by granting development approval after advertising the application in accordance with clause 64 of the deemed provisions.
87. Voting requirement for this item is **Simple Majority**.

POLICY IMPLICATIONS

88. The property is located in a Bushfire Prone Area which means the application requires assessment against *State Planning Policy 3.7 – Planning in Bushfire Prone Areas (SPP3.7)*.
89. The proposal is not consistent with Objectives 5.1, 5.2 and 5.3 and Policy Measure 6.6 of SPP3.7 and does not meet the performance solutions nor the intent of Element 5: Vulnerable Tourism Land Uses contained within the Guidelines for Planning in Bushfire Prone Areas (v1.4) associated with the SPP3.7.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Reputations and People Health and Safety</p> <p>Increased threat to individuals, specifically visitors, residing on the premises during a bushfire. If the proposed 'Holiday House' is approved, there is an elevated risk to visitor safety in the event of a bushfire, as the application fails to comply with best practice frameworks.</p> <p>A holiday house is classified as a 'vulnerable land use'.</p> <p>Not applying Guidelines for Planning in Bushfire Prone Areas and the local planning provisions could lead to severe consequences, jeopardising the safety of individuals (visitors) on the premises.</p>	Possible	Severe	High	<p><i>Mitigation: The recommended approach is to refuse the application, aligning with best practice guidelines and prioritising visitor safety.</i></p> <p><i>This ensures adherence to established frameworks and avoids endorsing a heightened risk to life associated with potential bushfire events.</i></p> <p><i>Should Council choose to support the application, it is recommended conditions be applied to enhance situational awareness, minimize risks, and contribute to a safer environment for visitors staying in the holiday house.</i></p>

FINANCIAL IMPLICATIONS

91. All costs associated with the development will be borne by the proponent.
92. Should the proponents be aggrieved by Council's decision and seek a review through the State Administrative Tribunal, the City may be liable for costs associated with defending the decision at a State Administrative Tribunal hearing.
93. Should Council elect to approve the development, there would be regulatory cost implications associated with such a decision. Compliance with, and adherence to, the Bushfire Management Plan (BMP) prepared for the property by the Applicant would be a condition of any approval as the BMP is part of the application.
94. The BMP states that bushfire education would be provided to all guests and that on catastrophic and extreme bushfire days the accommodation would be closed. The financial implications of ensuring compliance with this undertaking is yet to be quantified.

LEGAL IMPLICATIONS

95. Council may use its discretion to approve or refuse the proposal. An applicant aggrieved by a decision or condition may apply for a review to the State Administrative Tribunal, in accordance with Section 252 of the Planning and Development Act 2005.
96. Should Council elect to approve the development, the Council may be exposed to potential liabilities under the *Civil Liability Act 2002, Section 5X* if harm occurs due to a bushfire.
97. Section 5X of the Civil Liability Act 2002 pertains to claims for damages related to public bodies or officers. In a claim for damages arising from a public body or officer's fault in performing or not performing a public function.
98. Council may be liable for damages if proposal is approved, and harm occurs due to a bushfire.
99. It should be noted that a policy decision cannot be used to prove that the defendant was at fault unless the decision was unreasonable to the point where no reasonable public body or officer in the defendant's position could have made it. Essentially, if the decision was within a reasonable range, it won't be considered at fault.
100. It is proposed that should Council resolve to APPROVE the application, the applicant should be encouraged to implement measures to mitigate the risk to visitors, particularly in the context of a lack of situational awareness related to the proposed 'Holiday House' in a bushfire-prone area.

ENVIRONMENTAL CONSIDERATIONS

101. Should the application be approved and the recommendations contained within the BMP subsequently implemented, significant clearing of vegetation on both 56 Karrakatta Road (the subject of this application) and the neighbouring property at 53 Karrakatta Road would be required.

ALTERNATE OPTIONS

102. Council has the following alternate options in relation to this item, which are:
 - Approve the application as submitted, subject to conditions.
103. If approved, the following matters should be addressed by conditions or advice notes:
 - Implementation of the Bushfire Management Plan.
 - Implementation of Holiday House Management Plan, including an update to include the points raised in the Legal Implications section above.
 - Implementation of Holiday Accommodation Local Planning Policy requirements.

CONCLUSION

104. The application is proposing to introduce a vulnerable land use to a bushfire prone area.
105. The application for a Holiday House in the proposed location cannot be supported at officer level as the Holiday House is unable to provide an adequate asset protection zone (extreme bushfire hazard level), nor vehicle access (single access and egress route to a suitable destination). The officer’s recommendation for refusal is based on the proposal in its current form as it does not meet:
- a) objectives 5.1, 5.2 and 5.3 and policy measure 6.6 of SPP3.7;
 - b) the performance solutions nor the intent of Element 5: Vulnerable Tourism Land Uses contained within the Guidelines for Planning in Bushfire Prone Areas (v1.4) associated with the State Planning Policy 3.7 – Planning in bushfire prone areas. Specifically, the performance solutions outlined under the BMP dated 19/09/2023 do not satisfactorily demonstrate appropriate solutions for Siting and Design (P5iv) nor Vehicle Access (P5v).
 - c) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk; and
 - d) the suitability of the land for the development taking into account the possible risk to human health or safety.

Consulted References	:	<ol style="list-style-type: none"> 1. <i>Draft Local Planning Scheme No. 2</i> 2. <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> 3. <i>City of Albany Holiday Accommodation Local Planning Policy</i> 4. <i>State Planning Policy 3.7 – Planning in Bushfire Prone Areas</i> 5. <i>Guidelines for Planning in Bushfire Prone Areas (v1.4)</i>
File Number	:	A160896
Previous Reference	:	N/A

DIS389: PLANNING AND BUILDING REPORTS FEBRUARY 2024

Proponent / Owner : City of Albany.
Attachments : Planning and Building Reports February 2024
Report Prepared By : Technical Support Officer (P Ruggera)
Authorising Officer: : Manager Development Services
(J van der Mescht)

RECOMMENDATION

DIS389: AUTHORISING OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the Planning and Building Reports for February 2024 be NOTED.

DIS390: BUDGET AMENDMENT REQUEST – MALEY PLACE AND BARDLEY ROAD PATHWAY CONSTRUCTION

Proponent / Owner : City of Albany
Report Prepared By : Manager Engineering and Sustainability (R March)
Authorising Officer: : Executive Director Infrastructure, Development & 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:
 - **Pillar:** Place
 - **Outcome:** A safe, sustainable and efficient transport network.
 - **Objective:** Encourage more people to use active transport (walking and cycling).

In Brief:

- This is an additional review of grant funding allocation (budget) outside the normal budget review process.
- The review covers budget reallocation from Roads and Pathway sub-programs to cover underspends and overspends for projects this financial year (2023/2024).

RECOMMENDATION

**DIS390: AUTHORISING OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT the following budget reallocations be APPROVED:

1. **INCREASE** budget for Job Number 3074 (Maley Place & Bardley Road pathway construction) from \$406,000 to \$600,000.
2. **THAT** the shortfall in budget be funded by transferring an additional \$194,000 from the 'Roadworks and Drainage Reserve' account 13339.

BACKGROUND

2. The City of Albany was successful in obtaining West Australian Bike Network (WABN) funding from the Department of Transport (DoT) for the construction of concrete paths along Maley Place, Bardley Road and Wansbrough Street, in Spencer Park. WABN funding provides matched funding up to 50% for paths that are included in cycling strategies.
3. This path link will improve the safety of pedestrians and cyclists, as well as extending and linking the existing path along Wansbrough Street to Ulster Road and Hardie Road.

DISCUSSION

4. The City has followed a competitive quotation process twice and both times the price for the works on Maley Place and Bardley Road pathway construction works have come back above budget.
5. The cost of the work plus a 10% contingency (to cover unforeseen ground conditions) leaves a shortfall of \$194,000.
6. A review of the original budget and the tenderers submission indicates that the rates for traffic management, superintendence and paving correction are where the biggest differences are.

7. The revised and current estimate for the works is \$600,000. It is proposed that the City of Albany cover the shortfall of the project value \$194,000, while simultaneously seeking a variation of \$97,000 from WABN funding to take DoT contribution up to 50%.
8. It is proposed that the shortfall be funded through re-allocation from the 'Roadworks and Drainage Reserve' of \$194,000.

Project Name in Approved Work Schedule	Current Budget	Allocation	Updated Budget 2023
Maley Place & Bardley Road Pathway Construction (Job Number 3074)	\$406,000	\$194,000	\$600,000

GOVERNMENT & PUBLIC CONSULTATION

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

STATUTORY IMPLICATIONS

11. Under the *Local Government Act 1995* (the Act), section 6.8, a local government is not to incur expenditure from its municipal fund for an additional purpose except where the expenditure:
 - a. is incurred in a financial year before the adoption of the annual budget by the local government;
 - b. is authorised in advance by a resolution (absolute majority required); or
 - c. is authorised in advance by the Mayor in an emergency.
12. The voting requirement for this item is **Absolute Majority**.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Business Operation, Reputation & Financial. <i>Risk: Community perception that savings realised should be used for other purposes</i>	<i>Possible</i>	<i>Moderate</i>	<i>High</i>	<i>Clear communication of City's current financial position, noting that the payment will not impact on the City's ability to adequately service its obligations and achieve its operational and financial objectives this financial year.</i>
Opportunity: <i>To complete projects already in the Capital Works Program</i>				

FINANCIAL IMPLICATIONS

15. Additional funding from WABN of \$97,000 be applied for to fund 50% of the additional costs of the works.
16. In the meantime, path works require re-allocation from the 'Roadworks and Drainage Reserve' of \$194,000 to cover the shortfall.

LEGAL IMPLICATIONS

17. Nil.

ENVIRONMENTAL CONSIDERATIONS

18. Nil.

ALTERNATE OPTIONS

19. Council may:

- a. Adopt the amendment as recommended; or
- b. Adopt the amendment with alterations (as specified by Council); or
- c. Reject the recommendation.

CONCLUSION

20. That the Authorising Officer's Recommendation to adopt the Budget Amendment be supported.

Consulted References	:	Adopted Budget 2023/2024 <u>Local Government Act 1995</u>
Previous Reference	:	N/A

AR145: COMPLIANCE AUDIT RETURN (CAR) - 2023

Business Entity Name : City of Albany
Attachments : Albany – Compliance Audit Return 2023
Report Prepared By : Manager Governance & Risk (S Jamieson)
Authorising Officers: : Executive Director Corporate & Commercial Services
(M Gilfellon)
Chief Executive Officer (A Sharpe)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
 - **Pillar:** Leadership.
 - **Objectives:** Proactive, visionary leaders who are aligned with community needs and values.

In Brief:

- Receive and critique the Compliance Audit Return (CAR) Report – 2023.

RECOMMENDATION

AR145: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT a Certified Copy of the Compliance Audit Return (CAR) for the period 1 January 2023 to 31 December 2023 be ENDORSED by Council and any additional information explaining or quantifying the compliance audit is to be submitted to the Department before 31 March 2024.

AR145: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR BROUGH
SECONDED: COUNCILLOR MACLAREN

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 6-0

AR145: AUTHORISING OFFICER RECOMMENDATION

THAT a Certified Copy of the Compliance Audit Return (CAR) for the period 1 January 2023 to 31 December 2023 be ENDORSED by Council and any additional information explaining or quantifying the compliance audit is to be submitted to the Department before 31 March 2024.

BACKGROUND

2. Under regulation 14 of the Local Government (Audit) Regulations 1996, local governments are required to carry out a compliance audit return for the period of 1 January to 31 December of each year.

DISCUSSION

3. According to legislative mandates, local governments are obligated to submit an annual statutory compliance return, known as the Compliance Audit Return (CAR), and secure its adoption by the Council.
4. The CAR functions as a comprehensive checklist, evaluating a local government's adherence to the stipulations outlined in the Act and its accompanying Regulations. The focus lies on areas deemed "high risk" in terms of compliance.
5. Before its endorsement by the Council, the results of the annual CAR must undergo scrutiny by the Audit & Risk Committee.
6. To conclude this procedural requirement, the CAR is formally endorsed through the signatures of both the Mayor and the Chief Executive Officer (CEO) before being submitted to the Department via an online portal.
7. Additional information explaining and quantifying the compliance review is detailed in the attachment.

GOVERNMENT & PUBLIC CONSULTATION

8. Guidance has been communicated by the Department of Local Government, Sport & Cultural Industries.
9. Unlike previous years, the CAR now is only able to be completed by one person.
10. As recommended answers and documents were collated internally for preparation for submission and review before submission.

STATUTORY IMPLICATIONS

11. For compliance audits conducted by local governments, the specified actions are outlined in Regulation 14 of the Local Government (Audit) Regulations 1996.
12. The adopted return must be submitted to the Department no later than March 31, 2023.

POLICY IMPLICATIONS

13. Nil.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Legal & Compliance: <i>The CAR is not endorsed by the Council.</i>	<i>Unlikely</i>	<i>Minor</i>	<i>Low</i>	<i>The CAR is resubmitted once concerns are appropriately addressed, and it is forwarded to the Department before the deadline of March 31, 2024.</i>
Opportunity: <i>Facilitates Audit & Risk Committee critique.</i>				

FINANCIAL IMPLICATIONS

15. Nil.

LEGAL IMPLICATIONS

16. Nil.

ENVIRONMENTAL CONSIDERATIONS

17. Nil.

ALTERNATE OPTIONS

18. Nil.

CONCLUSION

19. Nil.

Consulted References	:	<ul style="list-style-type: none">• <i>Local Government Act 1995</i>• <i>Local Government (Audit) Regulations 1996</i>• Department Circulars
File Number:	:	CM.RPT.2 (Compliance Audit Returns)
Previous References	:	<ul style="list-style-type: none">• OCM March 2023 Resolution AR130

AR148: RECEIVE THE CONFIRMED MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD 04 DECEMBER 2023

Proponent / Owner : City of Albany
Attachments : **Confirmed Minutes of Audit and Risk Committee Meeting held 04 December 2023 - CONFIDENTIAL**
Report Prepared By : Senior Team Leader (J Williamson)
Authorising Officer: : Chief Executive Officer (A Sharpe)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
 - **Pillar:** Leadership.
 - **Outcome:** Provide strong, accountable leadership.

RECOMMENDATION

**AR148: AUTHORISING OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the confirmed minutes of the Audit and Risk Committee Meeting held on 04 December 2023 be RECEIVED.

BACKGROUND

2. The Audit and Risk Committee meeting is not open to the public and as such the minutes are not required to be published on the City’s website, in accordance with section 13 (1) (a) of the *Local Government (Administration) Regulations 1996*.
3. Report items requiring a decision of Council will be presented to an Ordinary Meeting of Council for consideration.

Consulted References	:	<i>Local Government Act 1995</i> <i>Local Government (Administration) Regulations 1996</i>
File Number	:	FM.MEE.3
Previous Reference	:	OCM 23/08/2022 Resolution AR123 OCM 28/03/2023 Resolution AR133 OCM 27/06/2023 Resolution AR137

BFAC016: RECEIVE THE MINUTES OF THE BUSH FIRE ADVISORY COMMITTEE – 4 SEPTEMBER 2023

Attachments : Confirmed Minutes of the BFAC Meeting held 04/09/2023
Report Prepared By : Personal Assistant to the ED Corporate & Commercial Services (H Bell)
Authorising Officer: : Executive Director Corporate and Commercial Services (M Gilfellon)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:

- **Pillar:** People
 - **Outcome:** A safe community
- **Pillar:** Planet
 - **Outcome:** A resilient community that can withstand, adapt to and recover from natural disasters.

In Brief:

- Receive the minutes of the Bush Fire Advisory Committee meeting held on 4 September 2023.

RECOMMENDATION

**BFAC016: AUTHORISING OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the confirmed minutes of the Bush Fire Advisory Committee meeting held on 4 September 2023 be RECEIVED.

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