



AGENDA

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING

12 July 2017

6.00pm

City of Albany Council Chambers

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

VISION

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

VALUES

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

Focused: on community outcomes

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

United: by working and learning together

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

Accountable: for our actions

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

Proud: of our people and our community

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

TERMS OF REFERENCE

(1) **Functions:** The Committee is responsible for:

Development Services:

The delivery of the “*Liveable Environmental Objectives*” contained in the City of Albany Strategic Plan:

- Advocate, plan and build connected, liveable communities.
- Create a community that supports people of all ages and backgrounds.
- Create vibrant neighbourhoods which are safe yet retain our local character and heritage.

Infrastructure Services:

The delivery of the “*Clean and Green Objectives*” contained in the City of Albany Strategic Plan:

- To protect and enhance our pristine natural environment.
- To promote environmental sustainability.
- To promote our region as clean and green.

(2) **It will achieve this by:**

- (a) Developing policies and strategies;
- (b) Establishing ways to measure progress;
- (c) Receiving progress reports;
- (d) Considering officer advice;
- (e) Debating topical issues;
- (f) Providing advice on effective ways to engage and report progress to the Community; and
- (g) Making recommendations to Council.

(3) **Membership:** Open to all elected members.

(4) **Meeting Schedule:** Monthly

(5) **Meeting Location:** Council Chambers

(6) **Executive Officers:** Executive Director Works & Services, Executive Director Development Services

(7) **Delegated Authority:** None

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1. DECLARATION OF OPENING

2. PRAYER AND ACKNOWLEDGEMENT OF TRADITIONAL LAND OWNERS

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

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

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

3. RECORD OF APOLOGIES AND LEAVE OF ABSENCE

Mayor D Wellington

Councillors:

Member	P Terry
Member	G Stocks
Member	B Hollingworth
Member	J Shanhun (Chair)
Member	S Smith
Member	A Goode JP
Member	A Moir
Member	R Sutton
Member	J Price
Member	N Mulcahy
Member	R Hammond

Staff:

Chief Executive Officer	A Sharpe
Executive Director Works and Services	M Thomson
Acting Executive Director Development Services	T Ward
Manager Development, Planning & Land Information Services	J van der Mescht
Meeting Secretary	J Cobbold

Apologies:

Member	C Dowling
Executive Director Development Services	P Camins

4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

6. PUBLIC QUESTION TIME

7. PETITIONS AND DEPUTATIONS

8. CONFIRMATION OF MINUTES

DRAFT MOTION

THAT the minutes of the Development and Infrastructure Services Committee meeting held on 14 June 2017, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

9. PRESENTATIONS

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

DIS035: MOTORISED WATERCRAFT ON LAKE MULLOCULLUP

Land Description	: City of Albany Managed Reserve 16367 (Lake Mullocullup).
Proponent / Owner	: City of Albany (Land vested in the care and control of the City of Albany).
Attachments	: Nil
Report Prepared By	: Reserves Officer (A Tucker)
Responsible Officers:	: Executive Director Works & Services (M Thomson)

Responsible Officer's Signature:	
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STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014 - 2018:-
 - a. **Key Theme:**
 - 2 – Clean, Green & Sustainable and 5 – Civic Leadership.
 - b. **Strategic Objectives:**
 - 2.1 - To protect and enhance our natural environment and
 - 5.1 – To establish and maintain sound business and governance structures.
 - c. **Strategy:**
 - 2.1.3 – Protect and enhance the health of our catchments and waterways.
 - 5.1.2 – Develop informed and transparent decision making processes that meet our legal obligations.

Maps and Diagrams:



Lake Mullocullup – off Warriup Road, Green Range

In Brief:

- Make further recommendations in relation to a previous determination at OCM on 27 October 2015.

Purpose & Effect:

- **Purpose:** Protection of the waters placed in the care and control of the City of Albany and public safety.
- **Effect:** Where water depth and/or condition poses a risk to the natural environment and/or public safety authorised officers will be empowered to restrict the use of motorised watercraft through a permit system.

RECOMMENDATION

DIS035: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council;

- (1) **APPROVE** the following determination under the City of Albany Property Local Law 2011, for the purpose of Public Consultation:

Determination: Motorised Watercraft

- A person is prohibited from operating a motorised watercraft on bodies of water (rivers, lakes, dams) located on local government property except on water which is gazetted by the Department of Transport or approved by the City of Albany.**
 - An authorised person shall have the authority to close a dam/lake/river to motorised watercraft if the water depth or condition may result in damage to the natural environment or pose a threat to public health and safety.**
 - Definition: Motorised Watercraft means a craft propelled by an inboard or outboard motor powering a water jet pump or propeller. This includes the following watercraft vessel descriptions: Powerboats, Personal Water Craft (Jet Ski), Recreational Vessels.**
- (2) **NOTE** that City staff will further investigate the implementation of a permit system, in conjunction with gazettal of Lake Mullocullop for the purpose of permitting the operation of motorise water craft, specifically for water skiing.
- (3) **NOTE** that prior to implementation of any permit system, City staff will prepare a report for consideration by Council.

BACKGROUND

2. Reference is made to Council report WS088 which was presented for determination at the Ordinary Council Meeting held on the 27th October 2015 where Council resolved the following:

“THAT Council:

1. *APPROVE the following determination under the City of Albany Property Local Law 2011, for the purpose of Public Consultation:*

Determination: Motorised Watercraft

- i. *A person is prohibited from operating a motorised watercraft on bodies of water (rivers, lakes, dams) located on local government property except on water which is gazetted by the Department of Transport or approved by the City of Albany.*
 - ii. *An authorised person shall have the authority to close a dam/lake/river to motorised watercraft if the water depth or condition may result in damage to the natural environment or pose a threat to public health and safety.*
 - iii. *Definition: Motorised Watercraft means a craft propelled by an inboard or outboard motor powering a water jet pump or propeller. This includes the following watercraft vessel descriptions: Powerboats, Personal Water Craft (Jet Ski), Recreational Vessels.*
2. *Pending no objections being received during the public consultation period, ADOPT the determination detailed above.”*
3. In accordance with the above resolution, a public consultation period was commenced advising of the proposed determination. During this period, significant feedback was received from stakeholders who were particularly concerned about potential implications in relation to Lake Mullocullopp (also referred to as Lake Warriup).
4. Lake Mullocullopp (Reserve R16367 Warriup Road) has been a popular place for motorised water craft and skiing for many years. The lake is not gazetted for this purpose and concerns have been raised regarding the safety of this activity and the impact it is potentially having on the environment.

DISCUSSION

5. At the conclusion of the public consultation, the City received a total of 59 submissions on the matter, 46 of which objected to the determination and 13 were in support. All of the submissions made reference to Lake Mullocullopp. As a result of this feedback, City officers considered it appropriate to consult further with stakeholders before bring the matter back to Council.
6. The City undertook further investigations by engaging with the Department of Transport (DoT) to undertake water depth (bathymetry) surveys, provide advice as to whether the lake is suitable for water-skiing and as such, whether a gazettal would be entertained, noting that the DoT would be the responsible agency for administering the gazettal process and ongoing enforcement.
7. This investigation revealed that lake has sufficient depth and that there are no real barriers to gazettal from the DoT’s perspective.
8. In July 2016 the City installed an information sign to all users warning them that the lake is not currently a gazetted water ski area and that there may be potential hazards to water-skiers using the lake. This sign was developed in consultation with LGIS the City’s insurers.
9. Two public meetings were held (7 February and 6 June 2017) to further discuss concerns and work through potential solutions to the problem with stakeholders.

10. The options presented at the public meetings included:
 - a. Option 1: Enforcing a ban on water-skiing on non-gazetted lakes and waterbodies within the City of Albany in accordance with the determination;
 - b. Option 2: Gazetting the waterbody and opening it up to all water-skiers thus enabling some enforcement and control though conditions;
 - c. Option 3: Gazetting the waterbody to water-skiing with a condition that a permit from the City of Albany must be obtained, thus enabling similar controls to the above but also to control the number of permits issued.
11. Feedback on these options was varied in that many felt that banning the activity completely was a better outcome for the environmental integrity of the lake.
12. In relation to "Option 3", local users felt this could be an acceptable compromise noting there was still some work to be done in order to determine exactly how the permit system would be administered.
13. It was widely agreed that the use of jet skis is not appropriate for this area.
14. The *City of Albany Property Local Law 2011* allows for the provision of permits under *Part 3 – Permits*. Whilst the exact details would need to be determined, it is envisaged that permits would be valid for a finite periods (for example two years) and carry conditions such as restricted daily times for skiing, be associated with the water craft (rather than a family name) and any other conditions that may be appropriate.
15. The issues around threat to the environmental value of the lake as a result of continued water-skiing needs to be addressed. There is limited detailed knowledge of the historic environmental condition of the lake. It is proposed that if water skiing activities are to continue, City officer will develop in consultation with local stakeholders an annual environmental monitoring program.

GOVERNMENT & PUBLIC CONSULTATION

16. A total of 59 submissions were received during the public consultation period in 2015. Of those, 13 of them expressed opinions in favour of banning water-skiing, whilst the remaining 46 expressed opinions against banning water-skiing. Two public meetings have been held on 7 February and 6 June 2017 with interested community members to further discuss the options.
17. Significant consultation with the Department of Transport has taken place since October 2015. If the lake is opened for skiing, the DoT will undertake the process to gazette the lake under *Regulation 48(a) of the Navigable Waters Regulations 1958*.
18. Initial discussions have been held with the local Noongar community and a site meeting with representatives from the public is scheduled for 10 July 2017. The outcomes of this consultation will be incorporated in a future report to Council.

STATUTORY IMPLICATIONS

19. Prior to implementing a permits system, the water body must first be gazetted under Regulation 48(a) of the *Navigable Waters Regulations 1958*. This process will be undertaken by DoT.
20. Following gazettal, the City may implement a permit system under Local Government Property Local Law 2011.
21. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

22. There is no specific Council policy position, as boating on crown land is dealt with under the *Local Government Property Local Law 2011, Part 2, Division 1 - Determinations*.

23. However, *Division 3 of Part 3 of the Property Local Law 2011* does allow for the creation of a policy adopted by Council containing conditions subject to which an application for a permit maybe approved. Such a policy, if decided is needed, will need to be formulated as a part of this process.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Community, People Health and Safety <i>Indiscriminate water skiing on water bodies not suitable for the activity and protection of the environment.</i>	<i>Almost certain</i>	<i>Moderate</i>	<i>High</i>	<i>Proceed with recommended determination under the City's Local Law, to allow Council Rangers to provide public education and enforcement if necessary.</i>

FINANCIAL IMPLICATIONS

25. Administrative costs for issuing of permits will be absorbed by general operating budgets. Costs for installation of signage will be funded within the natural reserves budget. There will be annual cost associated with an Environmental Monitoring Program which is yet to be determined.

LEGAL IMPLICATIONS

26. This is particularly important where a proponent seeks an approval that lies within Council's legal discretion.
27. For example: *There are no legal implications related to report.*

ENVIRONMENTAL CONSIDERATIONS

28. The City of Albany recognises that an inland fresh water wetland body such as Lake Mullocullup has significant environmental value and the importance of protecting it for future generations.
29. In February 2016 a member of WA Birdlife Australia undertook a snapshot survey of the lake. Thirty waterbird species were recorded at the lake and depend on the lake for their habitat requirements. However, the lake is considered not suitable for a migratory shorebird, nor for the endangered Australasian Bittern due to a lack of mudflats and dense reed beds. Black cockatoos, whilst have been recorded in the area, are most likely to be passing through rather than residing on site as no suitable trees with hollows were noted in the vicinity.
30. In July 2016 the City engaged TAFE WA to undertake a snapshot ecological survey of the lake and it serves as a good base structure to compare future ecological data against.
31. As a part of the proposal to allow limited/controlled water-skiing on this lake, the City proposes to instigate an annual environmental monitoring program. It is envisaged that this monitoring program will be able to be undertaken by community with assistance from City officers.

ALTERNATE OPTIONS

32. Council may resolve to support the determination and prohibit water-skiing on Lake Mullocullup and nothing further.

CONCLUSION

33. In principle support for the inclusion of water-skiing will allow staff to finalise the workings of a permit system and an annual environmental monitoring program.

Consulted References		<ul style="list-style-type: none">• <i>Navigable Waters Regulations 1958</i>• <i>Local Government Act 1995</i>• <i>City of Albany Local Government Property Local law 2011</i>
File Number (Name of Ward)	:	CR.COC.42 (Kalgan Ward)
Previous Reference	:	OCM 27 October 2015 Resolution WS088

DIS036: PROPOSED DOG LOCAL LAW 2017

Proponent	: City of Albany
Attachments	: • Proposed Dog Local Law 2017 (Gazette Ready) • Proposed Dog Local Law 2017 (Working Group Remarks)
Report Prepared by	: Manager Governance and Risk (S Jamieson)
Responsible Officer	: Executive Director Development Services (P Camins)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014 - 2018:
 - a. **Key Theme:** Civic Leadership
 - b. **Strategic Objectives:**
 - To establish and maintain sound business and governance structures.
 - To engage effectively with our community.
 - c. **Strategy:** Nil.

In Brief:

- A new Dog Local Law has been drafted with the main proposals being to:
 - limit the number of dogs a person is able to keep;
 - enable council to designate dog prohibited and exercise areas; and
 - introduce penalties for breaches of the local law.
- Recommend that Council confirm the proposed new Dog Local Law as presented in this report and invite public comment as required under the *Local Government Act 1995*.

RECOMMENDATION

DIS036: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

(1) Confirms its intent to propose a Dog Local Law 2017:

- a. **PURPOSE:** To make provisions about the impounding of dogs, to control the number of dogs that can be kept on premises and the manner of keeping those dogs and to prescribe areas in which dogs are prohibited and dog exercise areas.
- b. **EFFECT:** To extend the controls over dogs which exist under the *Dog Act 1976*.

(2) In accordance with the provisions of Section 3.12 of the *Local Government Act 1995*, GIVE PUBLIC NOTICE of its intention to MAKE the City of Albany Dog Local Law 2017.

BACKGROUND

2. The *Dog Act 1976* is administered and enforced by local governments within their respective districts. The Act addresses the control and registration of dogs; the ownership and keeping of dogs; and the obligations and rights of dog owners and others.

3. Each local government is able to introduce local laws on a range of matters for dog control including the number of dogs allowed to be kept at a premise and deleted the power of local governments to make local laws establishing areas where dogs are prohibited.
4. The Ranger Service Team have identified that there is a need for a Dog Local Law.

DISCUSSION

5. A local government needs to consider what elements of dog control they wish to regulate and only decide to make a local law if:
 - a. The *Dog Act 1976*, *Dog Regulations 2013*, or any other written law do not already cover that matter; and
 - b. There appears a sufficient need for additional regulation in that area.
6. It is considered that a local law is required to administer dog prohibited and exercise areas, as the designated dog exercise and prohibited areas detailed in the City of Albany *Animals Local Law 2001* no longer apply.
7. Post adoption of the proposed local law, Council will be empowered to determine dog exercise and prohibited areas through Council resolution (*Absolute Majority Required and 28 days public notice*).

Analysis:

8. The *Dog Amendment Act 2013* made various amendments to the *Dog Act 1976* including:
 - a. Expansion of the special provisions for Guide dogs in order to recognise and accommodate the various new types of appropriately trained assistance dogs now commonly used by people with a disability.
 - b. Deletion of the power of local governments to make local laws establishing areas where dogs are prohibited, and conferring on local governments a new power to establish such areas by absolute majority after giving at least 28 days' notice of intention to do so.
9. Following these amendments, on 20 May 2014 the Governor made amendments to the *Dog Regulations 2013* to provide that a 'place control provision' in a dog local law made under section 51(b), (ba) or (bb) 6 before 1 November 2013 (the day on which section 51(b), (ba) and (bb) were deleted by the *Dog Amendment Act 2013*), has no effect after 31 July 2014.
10. The specific details and explanation of contents are detailed in the attachment.

Options:

11. **Option 1** – Introduce a Dog Local law:
 - a. Council has the option to either accept the draft local law as presented or make amendments as it sees fit.
 - b. In either circumstance there is benefit in introducing a local law as it will provide powers to the City that are not currently available within the legislative framework available.
12. **Option 2** – Not introduce a Dog Local Law. Although the introduction of a local law will not resolve existing circumstances with dog and their owners, to have no law in place results in not being able to administer and enforce dog exercise areas.

GOVERNMENT AND PUBLIC CONSULTATION

13. Similar local laws across the sector have been reviewed and applicable Department of Local Government & Communities guidance notes have been consulted.

14. The Joint Standing Committee on Delegated Legislation website: www.parliament.wa.gov.au was reviewed.
15. **Internal Consultation:**
- a. Manager Building, Health & Compliance Services
 - b. Manager Ranger & Emergency Services
 - c. Ranger Team Leader
 - d. Manager City Reserves
 - e. Coordinator Developed Reserves
 - f. Coordinator Natural Reserves

STATUTORY IMPLICATIONS

16. Section 3.12 of the *Local Government Act 1995* (the Act) states the procedures for making local laws.
17. Section 3.12 of the Act requires the person presiding at a Council meeting to give notice to the meeting of the purpose and effect of the proposed local law.
18. Dog Act 1976, Section 51 – Local Laws

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation. <i>If the need for the proposed local law is not articulated and justified, negative community feedback may result.</i>	Possible	Major	Medium	<i>Communicate and justify rationale.</i>
Community Health & Safety. <i>A local law is required to administer dog control, no law will restrict compliance action.</i>	Possible	Major	Medium	<i>Make and adopt a local law that meets the communities' expectation to be kept safe from dog hazards.</i>

FINANCIAL IMPLICATIONS

21. Cost will be incurred with respect to the advertising and eventual publication in the Government Gazette of the Local Law. Advertising cost of approximately \$1000 dollars.

LEGAL IMPLICATIONS

22. Section 3.12 of the Act prescribes the procedures for making Local Laws.
23. Whilst the Act does expressly prescribe a time frame in which the procedural requirements for making Local Laws are to be completed, the procedures should be undertaken with "all convenient speed" in line with the *Interpretations Act 1984*.

ENVIRONMENTAL CONSIDERATIONS

24. There are no direct environmental considerations related to this item; however appropriate Dog Control has a direct effect on the natural environment and public safety.

CONCLUSION

25. It is recommended that Council commence the making of the Local Law process in accordance with section 3.12 of the *Local Government Act 1995*, and agrees to GIVE PUBLIC NOTICE of its intention to MAKE the City of Albany *Dog Local Law 2017*.

Consulted References	:	<ul style="list-style-type: none">• <i>Local Government Act 1995</i>• <i>Local Government (Functions & General) Regulations 1996</i>• <i>City of Albany Animal Local Law 2001</i>• <i>Dog Act 1976</i>• <i>Dog Regulation 2013</i>
File Number (Name of Ward)	:	<i>All Wards</i>
Previous Reference	:	<i>Nil</i>

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12. MEETING CLOSED TO THE PUBLIC

13. CLOSURE