

**DIS266: VEHICLES ON BEACHES**

<b>Land Description</b>	: City of Albany
<b>Proponent / Owner</b>	: City of Albany
<b>Attachment</b>	: Redacted Schedule of Submissions
<b>Report Prepared By</b>	: Manager City Reserves (J Freeman) Manager Governance & Risk (S Jamieson)
<b>Authorising Officer</b>	: Executive Director Infrastructure, Development & Environment (P Camins)

Councillor Benson-Lidholm declared an Impartiality Interest in this item. Councillor Benson-Lidholm remained in the Chamber and participated in the discussion and vote for this item.

**STRATEGIC IMPLICATIONS**

- This item relates to the following elements of the City of Albany Strategic Community Plan or Corporate Business Plan informing plans or strategies:
  - Theme:** Leadership.
  - Objective:** To provide strong, accountable leadership supported by a skilled and professional workforce
  - Community Priority:** Provide positive leadership that delivers community outcomes.

**In Brief:**

- Council resolved on 22 June 2021 to give public notice to the proposed determination.
- The period of advertising closed on 30 July 2021 with an additional 10 working days added due to an error in advertising. A total of 38 submissions were received and have been detailed in the attachment, and referenced at paragraph 7 of this report.

**RECOMMENDATION**

**DIS266: RESOLUTION (ALTERNATE MOTION BY COUNCILLOR DOUGHTY)  
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR DOUGHTY  
SECONDED: COUNCILLOR SUTTON**

**THAT:**

- The submissions received during the public submission period be NOTED.
- The proposed determination under the City of Albany Property Local Law 2011 be ADOPTED:

**Vehicles Permitted:**

Reserve Name & Number	Proposed Determination
Emu Point Marina Beach - R22698	Vehicles Permitted
Shoal Bay - R25295	Vehicles Permitted
Nanarup Beach (West) – R45631 (excluding lagoon area)	Vehicles Permitted
Bettys Beach (North) – R52835	Vehicles Permitted

**Vehicles Prohibited:**

Reserve Name & Number	Proposed Determination
Anvil Beach - R30883	Vehicles Prohibited
Black Swan Point - R25551	Vehicles Prohibited
Boronia Reserve Foreshore - R6862	Vehicles Prohibited
Brambles West - R25295	Vehicles Prohibited
Cosy Corner West - R24547	Vehicles Prohibited
Emu Point Beach South - R22698	Vehicles Prohibited

Middleton Beach - R14789 & R26149	Vehicles Prohibited
Normans Beach - R2031	Vehicles Prohibited
Nullaki Peninsula (Ocean Beach) - R30883	Vehicles Prohibited
Rushy Point - R35754	Vehicles Prohibited
Whaleworld Beach - R21337	Vehicles Prohibited

**Vehicles Prohibited other than for boat launching:**

Reserve Name & Number	Proposed Determination
Cheynes Beach (Central) - R878	Vehicles Prohibited other than for boat launching or commercial fishing
Bettys Beach (South) - R52825	Vehicles Prohibited other than for boat launching.
Cape Riche - R1010	Vehicles Prohibited other than for boat launching.
Frenchman's Bay (Whalers Beach) R21337	Vehicles Prohibited other than for boat launching.

3. Barriers are installed to prohibit vehicles from accessing Nanarup Beach (West) Lagoon.
4. A Code of Conduct be developed and implemented to guide the use of 4WDs on beaches.
5. The Nanarup Beach Management Plan (1999) be reviewed and updated to guide future use of Nanarup Beach.

**TIED 6-6  
THE MAYOR EXERCISED HIS CASTING VOTE  
CARRIED 7-6**

**Record of Vote**

Against the Motion: Councillors Thomson, Sleeman, Benson-Lidholm, Hammond, Terry and Shanhun.

**Councillor Reason:**



This Alternate Recommendation provides an opportunity for 4WDs to access Nanarup Beach (West) and Betty's Beach (North) whilst also acknowledging community feedback.

The key themes communicated during the community consultation period were:

- Safety of all beach users;
- Anti-social behavior; and
- Environmental impacts of vehicles on beaches.

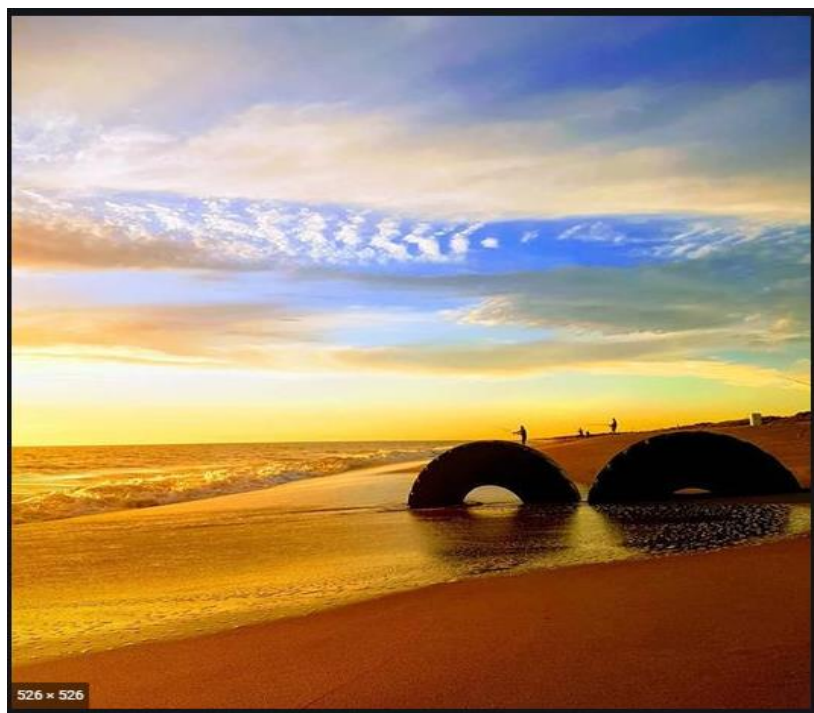
Mitigation strategies were identified by City officers, however, this motion identifies further mitigation to specifically prevent access to Nanarup Beach (West) Lagoon by vehicles. This will alleviate community concerns for the safety of beach users (specifically children) vs vehicles on the beach.

The installation of barriers (please refer to images A and B) will prevent vehicles being able to access and park directly around the Lagoon. The barriers will not prevent those with disabilities, the elderly or parent with young children accessing the Lagoon as parking will be in close proximity.

**Image A**



**Image B**



As detailed at Paragraph 11 of the report, City of Albany Ranger Team met with community members to discuss methodologies and reporting channels in relation to beach user safety and anti-social behavior, committing to:

- an improved professional presence;
- being as responsive as possible within resource constraints;
- improved education with an aim to modify driver behaviour; and
- another meeting with other parties including Police and DBCA.

To facilitate the proposed outcomes, the development and implementation of a Code of Conduct guiding the use of 4WDs on beaches will assist in managing community expectations for all beach users.

The Australian Recreational Motorists Association is prepared to work with the City of Albany and beach users to facilitate an educational program aimed at reducing conflict between vehicles and other beach users.

From an environmental perspective, all beaches in WA experience periods of coastal damage and/or erosion. To isolate Nanarup Beach (West) as the only beach to experience this within the City of Albany is unlikely to achieve any meaningful outcome at a macro level, and may lead to the conclusion that this specific focus has been included to strengthen the argument against allowing vehicles to access this particular beach.

The review and update of the Nanarup Beach Management Plan will assist both the City and community members in understanding any issues to be addressed and protect the dune system.

It is worth noting that camping and fires on all City of Albany beaches are already prohibited.

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

The Alternate Motion is reasonably consistent with the original Authorising Officer Recommendation and is considered a good compromise. It is supported by officers.

PROCEDURAL MOTION  
VOTING REQUIREMENT: SIMPLE MAJORITY

MOVED: COUNCILLOR SLEEMAN  
SECONDED: COUNCILLOR THOMSON

THAT this report be DEFERRED.

LOST 4-8

**Record of Vote**

For the Motion: Councillors Sleeman, Thomson, Shanhun and Benson-Lidholm.

DIS266: COMMITTEE RECOMMENDATION  
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT:

1. The submissions received during the public submission period be NOTED.
2. The proposed determination under the City of Albany Property Local Law 2011 be ADOPTED:

Vehicles Permitted:

Reserve Name & Number	Proposed Determination
Emu Point Marina Beach - R22698	Vehicles Permitted
Shoal Bay - R25295	Vehicles Permitted

Vehicles Prohibited:

Reserve Name & Number	Proposed Determination
Anvil Beach - R30883	Vehicles Prohibited
Black Swan Point - R25551	Vehicles Prohibited
Boronia Reserve Foreshore - R6862	Vehicles Prohibited
Brambles West - R25295	Vehicles Prohibited
Cosy Corner West - R24547	Vehicles Prohibited
Emu Point Beach South - R22698	Vehicles Prohibited
Middleton Beach - R14789 & R26149	Vehicles Prohibited
Normans Beach - R2031	Vehicles Prohibited
Nullaki Peninsula (Ocean Beach) - R30883	Vehicles Prohibited
Rushy Point - R35754	Vehicles Prohibited
Whaleworld Beach - R21337	Vehicles Prohibited
Bettys Beach (North) - R52825	Vehicles Prohibited
Nanarup Beach (West) - R45631	Vehicles Prohibited

Vehicles Prohibited other than for boat launching:

Reserve Name & Number	Proposed Determination
Cheynes Beach (Central) - R878	Vehicles Prohibited other than for boat launching or commercial fishing
Bettys Beach (South) - R52825	Vehicles Prohibited other than for boat launching.
Cape Riche - R1010	Vehicles Prohibited other than for boat launching.
Frenchman's Bay (Whalers Beach) R21337	Vehicles Prohibited other than for boat launching.

3. Vehicles remain prohibited on Nanarup Beach West and Bettys Beach North.
4. A report be provided to Council by April 2022 on the additional environmental matters raised in the latest round of public consultation relating to Nanarup Beach West and Bettys Beach North.

DIS266: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR TERRY  
SECONDED: COUNCILLOR THOMSON

THAT:

1. The submissions received during the public submission period be NOTED.
2. The proposed determination under the City of Albany Property Local Law 2011 be ADOPTED:

Vehicles Permitted:

Reserve Name & Number	Proposed Determination
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3. Vehicles remain prohibited on Nanarup Beach West and Bettys Beach North.
4. A report be provided to Council by April 2022 on the additional environmental matters raised in the latest round of public consultation relating to Nanarup Beach West and Bettys Beach North.

CARRIED 7-5

**Record of Vote:**

Against the Motion: Mayor Wellington, Councillors Doughty, Sutton, Stocks and Smith.

DIS266: AMENDMENT BY COUNCILLOR TERRY

MOVED: COUNCILLOR TERRY  
SECONDED: COUNCILLOR THOMSON

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

3. Vehicles remain prohibited on Nanarup Beach West and Bettys Beach North.
4. A report be provided to Council by April 2022 on the additional environmental matters raised in the latest round of public consultation relating to Nanarup Beach West and Bettys Beach North.

CARRIED 7-5

**Record of Vote:**

Against the Motion: Mayor Wellington, Councillors Doughty, Sutton, Stocks and Smith.

DIS266: AMENDMENT BY MAYOR WELLINGTON

MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR STOCKS

THAT the Authorising Officer Recommendation be AMENDED with the addition of Point 3 being that Council:

3. MONITOR vehicles on Nanarup Beach West and Bettys Beach North for two (2) years and provide a report to Council for review.

LOST 5-7

**Record of Vote:**

For the Motion: Mayor Wellington, Councillors Doughty, Sutton, Stocks and Smith.

Councillor Sleeman subsequently withdrew her support for the amendment.  
Councillor Stocks then seconded the amendment.

DIS266: AMENDMENT BY MAYOR WELLINGTON

MOVED: MAYOR WELLINGTON  
SECONDED: COUNCILLOR SLEEMAN

THAT the Authorising Officer Recommendation be AMENDED with the addition of Point 3 being that Council:

3. MONITOR vehicles on Nanarup Beach West and Bettys Beach North for two (2) years and provide a report to Council for review.

DIS266: AUTHORISING OFFICER RECOMMENDATION

MOVED: MAYOR WELLINGTON

SECONDED: COUNCILLOR SLEEMAN

THAT:

1. The submissions received during the public submission period be NOTED.
2. The proposed determination under the City of Albany Property Local Law 2011 be ADOPTED:

Vehicles Permitted:

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Emu Point Marina Beach - R22698	Vehicles Permitted
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Shoal Bay - R25295	Vehicles Permitted

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DIS266: AUTHORISING OFFICER RECOMMENDATION

THAT:

1. The submissions received during the public submission period be NOTED.
2. The proposed determination under the City of Albany Property Local Law 2011 be ADOPTED:

Vehicles Permitted:

Reserve Name & Number	Proposed Determination
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## BACKGROUND

- On 22 June 2021, Council resolved to give public notice on the subject determination.

## DISCUSSION

- There was a mistake in the advertisement / Public Notice for the Proposed Vehicles on Beaches Determination which appeared in The Weekender on 01 July 2021. This notice had the Frenchman's Bay and Nanarup Beaches around the wrong way.
- The Weekender apologised for these mistakes and agreed to place the appropriate correction notices free of charge. The corrected advertisement was published in the 08 July 2021 edition.

### Public Consultation Period:

- As the planned consultation period already exceeded the statutory period of time of 21 days, the closing date for submission remained as 30 July 2021.
- To accommodate the misinformation, the Council allowed for late submissions to be accepted up to 10 working days from the closing date.
- At the close of the public comment period, there were thirty eight (38) submissions opposing including All Beaches (3), Nanarup West (36) and Betty's Beach North (3)); and two (2) submissions in support (Nanarup West) of the proposed determination.
- Due to the advertising error, submissions will be received up to 10 working days after the closing date of 30 July 2021. Any further submissions will be emailed to Elected Members prior to the DIS Committee meeting on 11 August.
- The submissions received were generally from the same constituents and considered the same key concerns as the original community consultation, however there were very few supporting submissions made during the subsequent public comment period.

13. The key themes of concern particularly at Nanarup West were:
  - Safety
  - Anti-social behaviour
  - Environment
14. In relation to Nanarup West, City of Albany Ranger team members met with concerned community members to discuss methodologies and reporting channels in relation to safety and anti-social behaviour, committing to (subject to Council resolution):
  - an improved professional presence
  - being as responsive as possible within resource constraints
  - improved education with an aim to modify driver behaviour
  - another meeting with other parties including Police and DBCA
15. Proposed risk mitigation measures are identified within this item and the schedule of submissions.
16. Refer to attached Schedule of Submissions document.

### GOVERNMENT & PUBLIC CONSULTATION

17. Additional consultation was made post the 22 June 2021 with the Department of Local Government.
18. On 14 July 2021, the Manager Governance & Risk confirmed that with the amendment of local laws (through determination), the delegation sits within the remit of the City of Albany, and does not require the involvement of the Department of Premier and Cabinet.

### STATUTORY IMPLICATIONS

19. The Local Government Property Local Law 2011, prescribes the determination process.

#### **Clause 2.2 Procedure for making a determination**

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that—
  - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—
  - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) amend the proposed determination, in which case subclause (5) will apply; or
  - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to—
  - (a) consider those submissions; and
  - (b) decide—
    - i. whether or not to amend the proposed determination; or
    - ii. not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
  - (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

20. Voting requirement for this item is **SIMPLE MAJORITY**.

**POLICY IMPLICATIONS**

21. There are no direct policy implications.

22. Note under the City of Albany Local Government Property Local Law 2011 (clause 4.8 – Signs):

<p><b>4.8 Signs</b></p> <p>(1) A local government may erect a sign on local government property specifying any conditions of use which apply to that property.</p> <p>(2) A person shall comply with a sign erected under subclause (1).</p> <p>(3) A condition of use specified on a sign erected under subclause (1) is—</p> <p>(a) not to be inconsistent with any provision of this local law or any determination; and</p> <p>(b) to be for the purpose of giving notice of the effect of a provision of this local law.</p>
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**RISK IDENTIFICATION & MITIGATION**

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation</b> <i>Risk: Changes to beach access may not be accepted by some residents.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Provide clear signage, information and education on any changes.</i>
<b>People Health &amp; Safety</b> <i>Risk: Vehicle access to beaches can pose a risk to other beach users</i>	<i>Possible</i>	<i>Moderate</i>	<i>Medium</i>	<i>Install Code of Conduct signage and provide information and education.</i>
<b>Environment:</b> <i>Vehicle access to dunes causing damage to environment</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Monitor and undertake a dune protection plan and provide signage and education</i>
<b>Opportunity:</b> <i>To manage coastal reserves for current use and consolidate compliance requirements.</i>				

**FINANCIAL IMPLICATIONS**

24. The cost of updated and new signage can be accommodated within existing budget lines.

**LEGAL IMPLICATIONS**

25. There are no direct legal implications.

26. Compliance will be administered under the City of Albany Local Government Property Local Law 2011.

27. Infringements will be administered by City of Albany Authorised Persons (i.e. Rangers).

28. Non-payment of fines will be administered through the Fines & Enforcement Registry.

**ENVIRONMENTAL CONSIDERATIONS**

29. Environmental considerations were explored in previous reports and briefings.

**ALTERNATE OPTIONS**

30. Council may choose not to support the proposal to change beach access for vehicles, in which case ongoing enforcement will be required to manage vehicular access.

**CONCLUSION**

31. It is recommended that the Council approve the determination to allow better management and compliance of our coastal reserves.

<b>Consulted References</b>	:	<ul style="list-style-type: none"><li>• <i>Local Government Act 1995</i></li><li>• <a href="#">City of Albany Property Local Law 2011</a></li></ul>
<b>File Number (Name of Ward)</b>	:	EM.PLA.5 (All Wards)
<b>Previous Reference</b>	:	<ul style="list-style-type: none"><li>• Council Presentation 12 May 2021, post DIS Committee meeting.</li><li>• OCM 22 June 2021 Resolution DIS260.</li></ul>