



AGENDA

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING

9 August 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	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
Member	C Dowling

Staff:

Chief Executive Officer	A Sharpe
Executive Director Works and Services	M Thomson
Meeting Secretary	J Cobbold

Apologies:

Member	G Stocks (Leave)
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 12 July 2017, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

9. PRESENTATIONS

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS

DIS035: WATER SKIING ACTIVITIES 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	: WA Birdlife Australia Avian Fauna Report February 2016. GSIT Ecology Report July 2014.
Report Prepared By	: Reserves Officer (A Tucker)
Responsible Officers:	: Executive Director Works & Services (M Thomson)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014 - 2018:-
 - a. **Key Themes:**
 - 2 – Clean, Green & Sustainable, and
 - 5 – Civic Leadership.
 - b. **Strategic Objectives:**
 - 2.1 - To protect and enhance our natural environment, and
 - 5.3 – To engage effectively with our community.
 - c. **Strategy:**
 - 2.1.2 – Sustainably protect and enhance our iconic coastline and reserves.

Maps and Diagrams:



Lake Mullocullup – off Warriup Road, Green Range

In Brief:

- For Council to support gazettal of Lake Mullocullup for water skiing, and for the activity to be controlled through the issue of a permit from the City of Albany.

RECOMMENDATION

DIS035: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council SUPPORT the gazettal of Lake Mullocullopp by the Department of Transport for the purpose of allowing the operation of speed boats, specifically for water skiing, subject to the following:

- a) **That City staff implement a system to issue a limited number of permits to allow controlled water skiing on the lake;**
- b) **That City staff consult with the local Noongar Community and adequately address any concerns raised;**
- c) **An annual environmental monitoring program be developed by the City.**

BACKGROUND

2. At the Ordinary Council Meeting on 25th July 2017, Council considered this matter in a single report DIS035 where it was resolved:
 1. *THAT DIS035: Motorised Watercraft on Lake Mullocullopp be DEFERRED for consideration at the August 2017 Development and Infrastructure Services Committee Meeting.*
 2. *THAT two separate reports be prepared to consider:*
 - a) *The recommendations to adopt a determination to control Motor Boats operating within the Albany Municipality under the Local Government Property Local Law 2011.*
 - b) *Consider the use of Motor Boats specifically from Lake Mullocullopp.*
 - c) *That the Environmental Reports previously mentioned be supplied as an Attachment to the report to be presented to the August Development and Infrastructure Services Committee.*
3. Due to the report (DIS035) seeking to deal with multiple issues, complex in their nature, the Development and Infrastructure Committee felt that the matters for consideration should separate into two distinct reports such that further more detailed information can be provided and decisions can be made independent of one another with. This report deals with part b) of the above resolution.
4. Further reference is made to Council report WS088 which was presented for determination at the Ordinary Council Meeting held on the 27 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.”*

- 5. The term *Determination* is described in Part 2 of the City of Albany Property Local Law. The procedures for making a determination is also described in the Local Law. Determinations effectively enable the Local Government to enforce specific issues relating to the Local Law. Furthermore they are not subject to the rigorous process involved in the making of a Local Law however once made, they become part of the Local Law.

- 6. In accordance with the resolution made in October 2015, 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 for water skiing at Lake Mullocullop (also referred to as Lake Warriup and Mireembin Lake).

- 7. Lake Mullocullop (Reserve R16367 Warriup Road) has been a popular place for water 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 having on the environment.

- 8. Lake Mullocullop is considered highly significant from an environmental perspective and therefore its ongoing management requires a considered approach.

- 9. Generally speaking, water skiing areas are set aside by the Department of Transport (DoT) by gazettal. In these instances the DoT provides enforcement and compliance to ensure the safety and ongoing suitability of the area. It would be considered unusual for a Local Government to manage water skiing areas although it can occur if the Local Government has an appetite to do so.

DISCUSSION

Community Feedback during Determination Process

- 10. At the conclusion of the public consultation period, the City received a total of 59 submissions. 46 objected to the determination being made and 13 were in support. All of the submissions made reference to Lake Mullocullop. In summary, there was strong objection to prohibiting water skiing on Lake Mullocullop.

- 11. As a result of this feedback, City officers considered it appropriate to conduct further investigations and consult with stakeholders before further consideration by Council.

Investigations into suitability for Water Skiing

- 12. City staff undertook a preliminary site investigation to ascertain water depths and to observe the general condition of the site from an environmental perspective.

- 13. The City engaged with the Department of Transport (DoT) to undertake a water depth (bathymetry) survey and provide advice as to whether the lake is suitable for water skiing.

- 14. The investigations revealed that the Lake has sufficient depth for skiing (seasonal impacts noted) and that the Lake itself appeared in good condition apart from signs of indiscriminate parking and environmental damage adjacent to the boat launching area.

- 15. There is no evidence of any damage to foreshore vegetation apart from where clearing has occurred.

- 16. Notwithstanding the above, in July 2016, the City installed an information sign to all users warning 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 City's insurers LGIS.

Gazettal Process

17. The process of gazetting an area for water skiing is administered by the DoT under Regulation 48(a) of the Navigable Waters Regulations 1958. The initial bathymetry survey undertaken is fundamental to this process.
18. The DoT have indicated that they would be willing to initiate the gazettal process for Lake Mullocullo based on the information they have.

Additional Stakeholder Consultation

19. Two public meetings were held (7 February and 6 June 2017) to further discuss concerns over the use of the Lake and work through potential solutions or options.
20. The following matters were raised and discussed at the meeting on 7th February:
 - a. Environmental being caused by water skiing;
 - b. Dangerous behaviour and particularly jet ski's being unsuitable;
 - c. Noise;
 - d. Over use;
 - e. Historic use of the site by local people;
 - f. Local people using the Lake as a recreational meeting place and the importance of local recreational areas.
 - g. Results of bathymetry surveys and a plan discussed showing a possible gazetted area for skiing.
21. In response to the discussion at the February meeting, staff considered the issues further and presented the following three options at the public meeting on the 6th June:
 - 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.

Option Feedback

22. Feedback on the above options at the meeting was varied.
23. Option 1 was considered by many as being the only appropriate outcome from an environmental perspective.
24. Option 2 was considered inappropriate in that if the Lake is gazetted then it would be advertised state wide leading to potential over use.
25. Option 3, was supported by local users as it was felt that this could be an acceptable compromise noting that there was still some work to be done in order to determine exactly how a permit system would be administered. Option 3 was not supported generally by those who supported option 1, however some commented about the potential for some compromise.
26. It was widely agreed that the use of jet skis is not appropriate for this area.

Permits and Enforcement

27. 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 period (for example two (2) years) and carry conditions such as restricted daily times for skiing, be associated with the watercraft (rather than a family name) and any other conditions that may be appropriate.

28. Permits can be limited and City staff can be selective as to who may be issued with a permit (for example local residents) however it is important to develop an equitable system to manage this.
29. Permits can be cancelled at the discretion of the City of Albany.
30. Enforcement can be undertaken by the City of Albany however this is constrained by resources. Should the area be gazetted, enforcement and monitoring would also be undertaken by the DoT. Noting that both agencies have finite resources.
31. Once the system is developed and ready to implement, a policy would be presented to Council for adoption.

Suggested Way Forward

32. City staff have ascertained that, in their view, water skiing can occur at this location under controlled circumstances.
33. A permit system working in conjunction with the Lake's gazettal is likely to provide some control over the current activities in that Jet Skis can be prohibited and the number of skiers and boats can be controlled. It is envisaged that some self-regulation could occur noting that permits could be cancelled if there is any poor behaviour or environmental damage evident.
34. It is suggested that the City pursue the process of gazetting the area for water skiing with the DoT, and implement a permit system in parallel. The DoT have indicated that this can be accommodated.
35. The environmental value of the lake as a result of continued water skiing and use of speed boats needs to be monitored. There is limited detailed knowledge of the historic environmental condition of the lake. It is suggested that if water skiing activities are to continue, City officers will develop, in consultation with local stakeholders, an annual environmental monitoring program.
36. Limited consultation has occurred with the local Noongar community concerning the ongoing use of the Lake for skiing. Further discussions will take place with a view to establishing any concerns and implementing measures to address them. Prohibiting speed boats in this instance is not considered precluded as an option, however endeavours would be made explore means of mitigating impacts rather than prohibiting the activity.

GOVERNMENT & PUBLIC CONSULTATION

37. A total of 59 submissions were received during the public consultation period in 2015. Of those, 13 of them expressed opinions in favour of prohibiting water skiing, while the remaining 46 expressed opinions against. Two public meetings with interested community members were held on 7 February and 6 June 2017 to further discuss the options.
38. Significant consultation with the Department of Transport has taken place since October 2015.
39. Initial discussions have been held with the local Noongar community. This site has cultural significance to the Noongar Community and there are likely to be issues to work through. The gazettal process will not be finalised until these issues have been resolved.

STATUTORY IMPLICATIONS

40. Prior to implementing a permit system, the waterbody must first be gazetted under Regulation 48(a) of the *Navigable Waters Regulations 1958*. This process would be undertaken by DoT.
41. Following gazettal, the City may implement a permit system under the *City of Albany Property Local Law 2011*.
42. Voting requirement for this item is **SIMPLE MAJORITY**.

POLICY IMPLICATIONS

43. 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*.

44. 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.

RISK IDENTIFICATION & MITIGATION

45. 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

46. Administrative costs for issuing of permits will be absorbed by general operating budgets. Similarly with costs associated with signage. There will be annual cost associated with an Environmental Monitoring Program, the details of which are yet to be determined. This is estimate to be in the order of \$5,000.

LEGAL IMPLICATIONS

47. There are no direct legal implications related to this report, noting that actions may result as a result of enforcement.

ENVIRONMENTAL CONSIDERATIONS

48. The City of Albany recognises that an inland freshwater wetland body such as Lake Mullocullup has significant environmental value and the importance of protecting it for future generations.
49. In February 2016, a member of WA Birdlife Australia undertook a snapshot survey of the lake. Thirty (30) 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.
50. Black cockatoos have been recorded in the area however they are most likely to be passing through rather than residing on site as no suitable trees with hollows were noted in the vicinity.
51. In July 2014, the City engaged the Great Southern Institute of Technology (GSIT) to undertake a snapshot ecological survey of the lake, and this report serves as a good base structure to compare future ecological data against.
52. As a part of the proposal to allow limited / controlled use of speed boats and water-skiing on this lake, the City proposes to instigate an annual environmental monitoring program.
53. It is likely that a monitoring program will need to include disturbances/changes to the shoreline, the lake bed and the water column. Information from this monitoring will inform future management.
54. It is envisaged that any monitoring program will be designed to be able to be undertaken by the community with assistance from City officers to ensure long term sustainability.

ALTERNATE OPTIONS

55. Council may wish to not support water skiing on Lake Mullocullopp, in which case the default position would apply (subject to Council making the appropriate determination under the Local Law) which is that the use of speed boats would be prohibited.

56. This would eliminate any risk of environmental harm as a result of the use of speed boats and encourage more passive recreational pursuits.

CONCLUSION

57. This report recommends supporting the gazettal process for Lake Mullocullop subject to the City being able to control its use through a permit arrangement.

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	:	DIS Committee 12 July 2017 – Resolution DIS035 OCM 27 October 2015 - Resolution WS088

DIS039: LOCAL LAW DETERMINATION – USE OF SPEED BOATS

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

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014 – 2018:
 - a. **Key Theme:** 2 – Clean, Green & Sustainable
 - b. **Strategic Objectives:**
 - 2.1 – To protect and enhance our natural environment.
 - c. **Strategy:**
 - 2.1.2 – Sustainably protect and enhance our iconic coastline and reserves.

In Brief:

- Under the City of Albany Local Government Property Local Law 2011, approve the determination to prohibit speed boats on water bodies vested in the care and control of the City of Albany.

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, or unless otherwise approved, authorised officers will be empowered to prohibit the use of speed boats.

RECOMMENDATION

DIS039: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council APPROVE the following determination under the City of Albany Property Local Law 2011:

PROPERTY LOCAL LAW 2011 – DETERMINATION – USE OF SPEED BOATS

- (1) A person is prohibited from operating a ‘Speed Boat’ on bodies of water (rivers, lakes, dams) located on local government property.**
- (2) This determination does not apply to water bodies gazetted to allow water-skiing by the Department of Transport.**

Definition:

For the purpose of this determination the term “Speed Boat” means any watercraft or motor boat which is designed for, or capable of a speed in excess of 12 knots as per the description under the *Navigable Waters Regulations 1958*.

BACKGROUND

2. At the Ordinary Council Meeting on 25th July 2017, Council considered this matter in a single report DIS035 where it was resolved:

1. *THAT DIS035: Motorised Watercraft on Lake Mullocullup be DEFERRED for consideration at the August 2017 Development and Infrastructure Services Committee Meeting.*
2. *THAT two separate reports be prepared to consider:*
 - a) *The recommendations to adopt a determination to control Motor Boats operating within the Albany Municipality under the Local Government Property Local Law 2011.*
 - b) *Consider the use of Motor Boats specifically from Lake Mullocullup.*
 - c) *That the Environmental Reports previously mentioned be supplied as an Attachment to the report to be presented to the August Development and Infrastructure Services Committee.*

3. This report deals with part a) of the above resolution.

4. Reference is made to Council report WS088 which was presented for determination at the Ordinary Council Meeting held on the 27 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.'*
5. In accordance with the October resolution, a public consultation period was commenced advising of the proposed determination. During this period, significant feedback was received from stakeholders.
 6. Following further research into the *Navigable Waters Regulations 1958*, some terminology changes have been suggested in the determination. In particular the use of the term 'Speed Boat' in lieu of 'Motorised Watercraft' or 'Motor Boat'. A speed boat is defined as any motor boat which has the capacity to exceed a speed of 12 knots.
 7. In addition, item (ii) of earlier proposed determination is not relevant as there would be no instances in the City of Albany where the authorisation would be required. Subsequently this has been removed from the final wording.
 8. Should this determination be adopted, the default position is then that speed boats are prohibited from being used on any water body controlled by the City of Albany, unless the water body has been assessed and gazetted by the Department of Transport. This gazettal process would require City of Albany approval and could include conditions.

DISCUSSION

9. 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.
10. The submissions which objected to the determination are being addressed in a separate report to Council. Refer item b) in the July 2017 resolution above.
11. The current Property Local Law does not include a determination for speed boats. In order for any action by way of enforcement, the City of Albany requires the determination to be made.
12. The determination encompasses all water bodies that are under the management of the City of Albany. These include:
 - a. Lake Mullocullup (otherwise referred to as Lake Warriup and Mireembin Lake);
 - b. Nanarup Inlet;
 - c. Lake Seppings; and
 - d. Lake Vancouver and several small waterbodies / lakes within urban developed reserves.
13. Under the *Navigable Waters Regulations 1958*, motor boat means a vessel propelled by any means other than oars or sail and includes a speed boat and a sailing vessel which is equipped with propelling machinery and propelled by mechanical power. Under the same regulations, speed boat means a motor boat designed for, or capable of a speed in excess of 12 knots (22km/h).
14. The term '*speed boat*' has been used as it specifically targets vessels used for water-skiing, while not impacting on vessels most commonly used by recreational fisherman or other passive recreational uses.

GOVERNMENT & PUBLIC CONSULTATION

15. The matter of Lake Mullocullop which was highlighted in the submissions and is the subject of a separate report to Council as per item b) of the July resolution above.
16. There is no objection to the determination as it pertains to other water bodies within the City of Albany. It is therefore considered appropriate that the determination is made so that the default position on City of Albany waterbodies is clear. The default position is that speed boats are prohibited unless otherwise approved.

STATUTORY IMPLICATIONS

17. Clause 2.8 of the City's Local Government Property Local Law 2011 stipulates inter alia:
(3) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property –
(e) taking or using a boat, or a particular class of boat.
18. Voting requirement for this item is **SIMPLE MAJORITY**

POLICY IMPLICATIONS

19. There is no specific Council policy position, as boating on Crown Land is dealt with under the Local Government Property Local Law 2011. 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 and Opportunity Management Framework.

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputational Risk: <i>If the need for the proposed local law is not articulated and justified, negative community feedback may result.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>If the proposed local law determination is not endorsed, staff will review and address areas of concern.</i>
Community, People Health and Safety <i>Indiscriminate water-skiing on water bodies not suitable for the activity</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

21. Costs for installation of signage and closing of access to the water using physical barriers will be funded, as required per site, within the natural reserves budget. Any signage installed will be placed on the City's register for capital maintenance and replacement.

LEGAL IMPLICATIONS

22. Determinations under the Local Government Property Local Law 2011 must be implemented in accordance with the City of Albany Local Government Property Local Law 2011, clause 2.2

ENVIRONMENTAL CONSIDERATIONS

23. There are no direct environmental considerations related to this item. However, prohibiting the use of speed boats on inappropriate water bodies does have a direct effect on the natural environment and public safety.

ALTERNATE OPTIONS

24. Council may resolve to:

- a. Not support the determination; or
- b. Support the determination with modification.

25. If Council resolves to not make a determination, the current situation would apply where the City of Albany is unable to provide any enforcement in respect to the use of speed boats as the Local Law does not specifically about the issue.

CONCLUSION

26. It is recommended that the Council approve the determination to prohibit the use of speed boats on water bodies managed by the City of Albany unless it is gazetted for the purpose by the Department of Transport.

Consulted References	:	<i>Local Government Act 1995</i> <i>City of Albany Property Local Law 2011</i>
File Number (Name of Ward)	:	All wards
Previous Reference	:	DIS Committee 12 July 2017 – Resolution DIS035 OCM 27 October 2015 – Resolution WS088

DIS040: SUMMARY OF CORONER'S REPORT

Proponent	: City of Albany
Attachments	: Coroners Court of Western Australia – Record of Investigation into Death of Wendy Elizabeth Bearfoot
Report Prepared by	: Manager Ranger and EM Services (T Ward)
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
 - To provide strong, accountable leadership supported by a skilled & professional workforce.
 - To provide positive leadership that delivers community outcomes.
 - b. **Strategic Objectives:** A Sense of Community
 - To build resilient and cohesive communities with a strong sense of community spirit.
 - c. **Strategy:**
 - Promote and develop an authentic sense of community.

In Brief:

- The Coronial Inquest into the circumstances surrounding the Black Cat Creek Fire of October 12, 2012 has been completed.
- The Inquest found that a series of cumulative errors lead to the fatality but found no individual or organisation at fault.
- Improvements in incident control and training made by involved agencies have been acknowledged.
- The Coroner has made no formal recommendations for further improvements or systemic changes.

RECOMMENDATION

DIS040: RESPONSIBLE OFFICER RECOMMENDATION

THAT this summary of the Coroner's Record of Investigation into Death, in association with the event known as the Black Cat Creek Fire on October 12, 2012 be NOTED

BACKGROUND

2. On October 12, 2012, City of Albany Volunteer Bush Fire Brigades responded to a bushfire event, later known as the Black Cat Creek fire. The fire ultimately burnt 1,300 hectares of land.
3. Initial control of the fire was undertaken by City volunteers but as the event escalated, several requests were made for the Fire and Emergency Services Authority (now DFES) to take over responsibility for its management.
4. An unanticipated wind change occurred during the fire, which resulted in a burn-over (a section of fire that runs over personnel and/or equipment). Several fire-fighters were injured, including

Department of Environment and Conservation employee, Mrs Wendy Bearfoot, who was severely burnt. Tragically, she died in hospital some weeks later as a result of her injuries.

5. Following the incident, a number of operational reviews were undertaken. These actions have resulted in significantly improved standards of safety for fire appliances, training programs and personnel protective equipment (PPE).
6. As a result of the death of Mrs Bearfoot, an inquest into the circumstances of the Black Cat Creek Fire and subsequent fatality was held from 31 October and 7 November 2016, before Ms Sarah Linton, Coroner. The findings were released publically on 22 June 2017.

DISCUSSION

7. Ms Linton was sensitive to the level of community concern and acknowledged the significant impact that the death of Mrs Bearfoot has imparted on her community and colleagues, who still carry the burden of responsibility for what happened to this day. She paid tribute to the outstanding bravery and commitment shown by those involved in the burn-over.
8. A combination of circumstances were identified as contributing to the eventual death.
9. Spot weather forecasts were not fully read and broadcast by a number of personnel.
10. As a culture, fire-fighting personnel did not consistently use PPE.
11. Fire crews were located in the 'dead man zone' – the area that is likely to burn within five minutes in the case of a sudden wind change – immediately prior to the burn-over.
12. Fire appliances were not provided with available crew protection measures such as heat shielding and water spray or 'deluge' systems. The Coroner noted that these same measures are fitted to vehicles in other states of Australia as standard.
13. Comprehensive training for burn-over situations was not provided to fire-fighters.
14. Native vegetation in the vicinity of the incident had not been burnt for a very long time, with local estimates indicating that the bush had been unburnt for approximately 50 years prior to the Black Cat Creek fire.
15. In addition to these matters, the Coroner noted that a truck belonging to the South Coast Volunteer Bush Fire Brigade that was directly involved in the burn-over has not been upgraded to the same standard as DFES supplied appliances, being a higher standard than that required by Work Safe WA notices issued to the City of Albany in 2012.
16. Ms Linton noted that there is an inherent risk in fighting fires that cannot be fully eliminated, but that the significant changes implemented by the various agencies involved after the tragedy will hopefully make the fire ground safer.

Analysis:

17. The Coroner did not deliver any adverse findings or recommendations against the City of Albany or any other agencies involved in the incident.
18. No formal recommendations have been made, although the Coroner has urged DFES to complete the retrofitting of state-wide volunteer fire appliance fleet with upgraded crew protection measures.

Subsequent Actions taken:

19. Since the public release of the Coroner's report, the Chief Executive Officer has ordered the removal of two City-owned heavy appliances from the City's fire fighting fleet as they do not currently meet the same crew protection safety standards as the DFES-supplied vehicles.

20. A request has since been made to DFES to assist in bringing these appliances up to the same safety standards as the latter vehicles before they are returned to service.

GOVERNMENT AND PUBLIC CONSULTATION

21. Extensive consultation with involved agencies has occurred since the initial incident in 2012. This collaborative approach has resulted in the City of Albany being amongst the industry leaders in the areas of volunteer safety and emergency management.

STATUTORY IMPLICATIONS

22. There are no direct statutory implications associated with this report however, Local Government has statutory authority under the *Bush Fires Act 1954* for volunteer Bush Fire Brigades.
23. Voting requirement for this item is **SIMPLE MARJORITY**

POLICY IMPLICATIONS

24. Minimum training standards for Bush Fire Brigade volunteers have been established under adopted Brigade Operating Procedures.

RISK IDENTIFICATION & MITIGATION

25. **N/A**

FINANCIAL IMPLICATIONS

26. There are no financial implication associated with the recommendation as presented.

LEGAL IMPLICATIONS

27. There are no legal implication associated with the recommendation as presented.

ENVIRONMENTAL CONSIDERATIONS

28. There are no environmental consideration related to the noting of this report.

CONCLUSION

29. The coronial investigation into the circumstances of the Black Cat Creek Fire and subsequent tragedy on October 12, 2012 are now finalised. Major improvements have been made to all aspects of volunteer safety and bush fire response within the City of Albany and are subject to regular review and continuous improvement.
30. The Coroner’s report and summary of findings, in particular the bravery and dedication of involved personnel, volunteers and staff alike, should be noted.

Consulted References	:	<ul style="list-style-type: none"> • <i>Bush Fires Act 1954</i> • <i>Volunteer Bush Fire Brigade Operating Procedures 2015</i>
File Number (Name of Ward)	:	<i>All Wards</i>
Previous Reference	:	<i>Nil</i>

**DIS041: NELSON STREET AND BATHURST STREET LOCAL AREA
TRAFFIC MANAGEMENT.**

Land Description : Road Reserve – Nelson and Bathurst Streets
Proponent / Owner : City of Albany
Business Entity Name : Nil
Attachments : Concept Layout Plan
Supplementary Information & Councillor Workstation : Nil
Report Prepared By : Manager City Engineering (David King)
Responsible Officers: : Director of Works and Services (Matt Thomson)

Responsible Officer's Signature:



STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2023 and Corporate Business Plan 2014 - 2018:
 - a. **Key Theme:** 3. A Connected Built Environment
 - b. **Strategic Objective:** 3.1. To advocate, plan and build friendly and connected communities.
 - c. **Strategic Initiative:** 3.1.2. Traffic Modelling. Improved traffic flows.

In Brief:

- Issues concerning traffic speed on Bathurst and Nelson streets have been ongoing since 2010.
- Speed cushions were installed in 2010 but noise concerns have since seen them removed in early 2015.
- Options to realign the road in line with the Local Area Traffic Management (LATM) Plans have been proposed but unsupported by Council.
- This report proposes an alternative Local Area Traffic Management (LATM) treatment that will reduce traffic speeds whilst minimising additional noise.

RECOMMENDATION

DIS041: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council:

1. **SUPPORT** the permanent installation of six (6) Local Area Traffic Management Devices on Bathurst Street in accordance with the attached plans, subject to a Road Safety Audit and approval by Main Roads Western Australia.
2. **NOTE** that following approval, Council will consider the allocation of \$25,000 in the capital budget through a budget amendment for the installation in 2017/2018.

BACKGROUND

2. Issues concerning the geometry of the intersection of Bluff, Nelson and Bathurst Streets resulted in the intersection being reconfigured in 2009/10. Ongoing concerns led to the installation of rubberised speed cushions in 2012.
3. Whilst effective at reducing traffic speeds, the City received a number of complaints due to the excessive additional noise created by the cushions. In addition, a number of erratic traffic actions in attempt to avoid the cushions were observed. This prompted further consultation and ultimately to their removal in early 2015.
4. Since the removal of the speed cushions traffic speeds have increased to previous levels. Initiatives such as campaigned speed enforcement have not resulted in any long lasting impacts.
5. Traffic numbers and speeds have been monitored continually throughout the period 2009 to present, and City officers have continued to receive public complaints about speeding on Bathurst and Nelson Streets.
6. The installation of Local Area Traffic Management treatments (such as traffic calming devices) are often effective however their installation can have unintended consequences and therefore careful consideration needs to be given before installing any treatments on a permanent basis.

DISCUSSION

7. The 85th percentile speed is the standard measure that is analysed to determine if a road environment and associated speed zone is appropriate. Typically, the 85th percentile speed should be on or around the posted speed limit.
8. Without Local Area Traffic Management (LATM) treatments, Bathurst and Nelson Streets have 85th percentile speeds of 62km/hr and 55.8km/hr respectively.
9. Whilst not uncommon for streets in Albany to record speeds in this range, they are usually found on long, straight, wide streets where the environment is conducive to higher operating speeds.
10. In this case Bathurst and Nelson Street are narrow with variable vertical and horizontal geometry which indicated the measured operating speeds are at a point where intervention is warranted.
11. In these cases, City officers often receive requests to support a reduced speed limit to Main Roads Western Australia (MRWA). However, this is generally not the solution and MRWA often do not support this as usually the only outcome is an increased non-compliance.
12. LATM's or traffic calming devices are often the preferred solution and can be a number of different treatments. LATM's attempts to reduce the speed environment and therefore 85th percentile speeds.
13. City Engineers have investigated alternatives and given the constraints of the site the most appropriate treatment is slow points as shown in the attachment.
14. Six (6) temporary slow points were installed as a two week trial between 06/02/2017 and 20/02/2017 to gauge both traffic and public reaction to the treatment.
15. The slow points are a treatment that can be installed between the kerbs which essentially narrows the road to a single lane width, and gives priority of movement in a particular direction.
16. By staging a number of the devices in succession, travelling vehicles have to give way at some point therefore reducing speed and encouraging more cautious driving. The slow points were effective at reducing both speed and vehicle numbers as shown in table A below:

TABLE A

	Location	Post Trial	During Trial
VPD (Average)	Bathurst	1012	995
	Corner	951	875
	Nelson	937	862
85%ile Speed (Km/h)	Bathurst	62.0	52.2
	Corner	47.2	46.1
	Nelson	55.8	50.4
VPD (avg) 50-60 km/hr	Bathurst	479	193
	Corner	68	46
	Nelson	353	130
VPD (avg) 60-70 km/hr	Bathurst	197	28
	Corner	3	3
	Nelson	53	14
VPD (avg) >70 km/hr	Bathurst	31	4
	Corner	0	1
	Nelson	4	3

17. Note VPD denotes vehicles per day.
18. During the trial there was one minor incident. A rear end collision caused by the forward vehicle braking heavily for a give way sign with the following vehicle not responding in time.
19. The incident was considered driver error, and was not considered a result of insufficient signage or advance warning of LATM devices.
20. Prior to installation of any permanent treatments, a Road Safety Audit of the design will be undertaken by an accredited auditor.

GOVERNMENT & PUBLIC CONSULTATION

21. Community feedback was directed at major stakeholders, those being the immediate residents and property owners on Bathurst and Nelson Streets. Consultation was in the form of a letter drop requesting comment and a number of community workshops post trial to discuss any issues, advantages and disadvantages.
22. 88% of the respondents that lived on Bathurst and Nelson Streets were supportive of the trial and wanted to see the slow points installed permanently and cited reduced speed and increased safety of the Street.
23. However, seven (7) residents from the wider area contacted officers to register their opposition to the treatments. It is thought that these respondents use Bathurst and Nelson as a through route, and as such it is not surprising to receive negative feedback.
24. Given the overwhelming support from street residents, and the positive reduction in speeds, particularly on the corner of Bluff and Bathurst, it is considered appropriate to proceed with a permanent installation.
25. If permanent installation is supported, a further detail design and additional consultation will be undertaken with the street residents to determine the best locations, and to finalise a resolution to minor issues with the placement of the trial treatments discussed at the workshops.

26. Consultation with MRWA will be required to support permanent regulatory signage required in the installation of the treatments.
27. Extensive consultation including letters and two on site workshops have been undertaken with the residents of Bathurst and Nelson Street (Bathurst to Seymour).

STATUTORY IMPLICATIONS

28. The plans of the proposed LATM require approval from Main Roads Western Australia as the agency that is responsible for regulatory line marking.
29. There are no other statutory implications.

POLICY IMPLICATIONS

30. Nil

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputational: A vehicle accident occurs because of excessive speed exposing council to negative publicity.	Possible	Moderate	Medium	Address the unresolved safety issues by completing the LATM process and installing identified treatment.
Financial: An inappropriate LATM strategy is chosen and an accident occurs increasing council liability.	Unlikely	Major	Medium	Conduct a post design road safety audit to identify any outstanding issues.
Reputational Opportunity: There is an opportunity to positively respond to the continued concerns being raised by residents on this street.				

FINANCIAL IMPLICATIONS

32. The cost of the treatment is approximately \$25,000 and will require a capital budget line allocation. At this stage, there is no allocation made. If the permanent installation is supported by Council, City Engineers will progress the full design and approvals process and will look to seek Council's approval to allocate funds through the budget review process.

LEGAL IMPLICATIONS

33. There are no direct legal implications related to this item.

ENVIRONMENTAL CONSIDERATIONS

34. There are no direct environmental considerations related to this item.

ALTERNATE OPTIONS

35. Nil.

CONCLUSION

36. The proposed LATM treatment option is to install up to six (6) slow points on Bathurst and Nelson Streets in order to reduce the incidence of excessive traffic speeds.
37. A trial has been conducted and resulted in a reduction of speed.
38. The trial received positive feedback from the street residents but a lack of support from local residents that do not live on the street.

39. This report recommends that Council support a permanent installation subject to relevant approvals being obtained through Main Roads Western Australia.

Consulted References	:	<i>Local Government Act 1995</i>
File Number (Name of Ward)	:	RD.PRG.2 (Breaksea and Frederickstown Wards)
Previous Reference	:	OCM 19/04/2011 - Item 3.1 OCM 25/02/2014 – Item WS027 OCM 27/05/2014 – Item WS039

**DIS042: C17022 – PANEL OF SUPPLIERS – VEGETATION
MAINTENANCE WORKS**

Land Description : N/A
Proponent / Owner : City of Albany
Business Entity Name : N/A
Attachments : N/A
Supplementary Information & Councillor Workstation : N/A
Report Prepared By : Acting Manager City Reserves (J Freeman)
Responsible Officers: : Executive Director Corporate Services (M Cole)

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:** 2. Clean, Green & Sustainable.
 - b. **Strategic Objectives:** 2.2. To maintain and renew city assets in a sustainable manner.
 - c. **Strategy:** 2.2.1 Deliver effective asset planning and delivery programs

In Brief:

- Council approval is sought to appoint a Panel of Suppliers for vegetation maintenance works within the City of Albany.
- Seven (7) compliant tenders were received with Greenman Trading Company, Arbor Guy, Alec Henry Pty Ltd and Jack The Chipper being recommended to be included in the panel.

RECOMMENDATION

DIS042: RESPONSIBLE OFFICER RECOMMENDATION

THAT tenders from the following service providers:

- i. **Greenman Trading Company;**
- ii. **Arbor Guy;**
- iii. **Alec Henry Pty Ltd; and**
- iv. **Jack The Chipper;**

be ACCEPTED for inclusion on the Panel of Suppliers for Contract C17022 – Vegetation Maintenance Works.

BACKGROUND

2. The current contract for vegetation maintenance works expires on 26 August 2017.
3. Tenders were called for vegetation maintenance works for a period from 27 August 2017 (or the date awarded whichever occurs latest) for a two year period, with a mutually agreeable and price negotiated extension of one year.

4. The tender is for all work which may including, among other things vegetation/tree removal, pruning, Western Power vegetation clearing, mulching, chipping, stump grinding and arboriculture reports at nominated sites within the City of Albany.

DISCUSSION

5. A total of 27 tender documents were issued by the City of Albany.
6. Seven (7) completed tender documents were submitted on or before the stipulated closing date and time.
7. The tenders were evaluated using the weighted attributes methodology. This method scores the evaluation criteria and weighs their importance to determine an overall point score for each tender. The criteria are tabled below:

Criteria	% Weighting
Cost	35%
Relevant Experience	15%
Key Personnel Skills & Experience	15%
Tenderer’s Resources	20%
Demonstrated Understanding	10%
Corporate Social Responsibility	5%
Total	100%

8. The following table summarises the tenders and overall evaluation scores applicable to each submission:

Tenderer	Total Evaluation Score
Greenman Trading Company	513
Arbor Guy	504
Alec Henry Pty Ltd	502
Jack The Chipper	420
Tenderer E	406
Tenderer F	319
Tenderer G	Non-conforming

9. It is recommended that the top four ranking suppliers be accepted to the panel.
 - a. Greenman Trading Company;
 - b. Arbor Guy;
 - c. Alec Henry Pty Ltd; and
 - d. Jack the Chipper.
10. Tenderer G did not provide a conforming price schedule and was unable to provide satisfactory clarification.

GOVERNMENT & PUBLIC CONSULTATION

11. A request for tenders was published in the West Australian on Wednesday 31 May 2017 and the Albany Weekender on Thursday 1 June 2017.

STATUTORY IMPLICATIONS

12. Regulation 11 of the *Local Government (Functions and General) Regulations 1996 (Regulations)* requires Council to publicly tender if the contract is, or is expected to be, more, or worth more than \$150,000.
13. Regulation 18 of the Regulations outlines a number of requirements relating to choice of tender. Council is to decide which of the acceptable tenders is the most advantageous to Council. It may also decline to accept any tender.
14. Regulation 19 of the Regulations requires Council to advise each tenderer in writing the result of Council's decision.

POLICY IMPLICATIONS

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

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
Financial: <i>Non-compliance with contract or business failure.</i>	<i>Unlikely</i>	<i>Medium</i>	<i>Medium</i>	<i>General conditions of contract as outlined in the tender process allow for contract termination on the basis of failure to supply goods and services.</i>

FINANCIAL IMPLICATIONS

17. The value of this tender is expected to be in excess of \$1 million over 3 years, and therefore the approval is referred to Council for consideration.
18. The cost per job will be included in the specific budget line item.

LEGAL IMPLICATIONS

19. There are no legal implications related to report.

ENVIRONMENTAL CONSIDERATIONS

20. All works that are not general maintenance will be passed through the Environmental Planners prior to commencement of works to ensure there are no issues to address with regards to significant flora and fauna.

ALTERNATE OPTIONS

21. Nil

CONCLUSION

22. Following the tender evaluation process, the submissions from Greenman Trading Company, Arbor Guy, Alec Henry Pty Ltd and Jack the Chipper are recommended to be added to the Panel of Suppliers as they scored the highest average Evaluation Score.

Consulted References	:	<i>Local Government (Functions and General) Regulations 1995</i> <i>Council Policy – Purchasing</i> <i>Council Policy – Buy Local (Regional Price Preference)</i>
File Number (Name of Ward)	:	C17022 (Across all wards)
Previous Reference	:	Nil

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12. MEETING CLOSED TO THE PUBLIC

13. CLOSURE