

ALTERNATE MOTION – COUNCILLOR TERRY

ITEM: DIS062

TITLE: PETITIONS RELATING TO THE GAZETTAL OF LAKE MULLOCULLUP FOR WATER SKIING (RESERVE 16367)

DATE AND TIME RECEIVED: MONDAY 27 NOVEMBER 2017 AT 11.29AM

DIS062: ALTERNATE MOTION BY COUNCILLOR TERRY
VOTING REQUIREMENT: SIMPLE MAJORITY

THAT Council:

- 1. NOTES the concerns raised in the petitions received and DIRECTS the Chief Executive Officer to suspend any further work on progressing the gazettal of Lake Mullocullup for water skiing until a Management Plan is completed for the Reserve.**
- 2. SUPPORT the implementation of a Management Plan for Reserve 16367 that is consistent with the City's Natural Reserves Strategy and includes appropriate consultation with the Noongar Consultative Committee as outlined in the Natural Reserves Strategy; and**
 - a) A section of the proposed Management Plan should address the effects that water skiing and jet skiing activities have on the lake and make appropriate recommendations in relation to that activity.**

Councillor Reason:

I do not consider that the Responsible Officer Report adequately addresses the concerns raised in the petitions, and the current proposed course of action, being to engage an independent consultant to consult with the Noongar community in relation to gazettal of water skiing activities on Lake Mullocullup, is likely to be a waste of valuable City resources both in terms of expense and staff time.

In addition, adequate Noongar consultation should already have taken place prior to DIS035 coming to Council in August 2017.

I say the consultation is a waste of time because on the petition submitted by Carol Pettersen exists six of the ten members of the new proposed Noongar Consultative Committee, and there are two more signatures of people closely related to two other proposed members of that committee. So we effectively have eight of the local Noongar families and their elders already objecting to the gazettal of Lake Mirrabeen (Mullocullup). Why do we need to engage a consultant to come up with an answer that is most likely already known? It seems ludicrous to me.

Further, there have been other concerning matters that have been raised in the petitions that have not been adequately addressed in the Responsible Officer Report. I brought up one of these at this month's Development and Infrastructure Services Committee. That is the right to water ski on the lake. As I pointed out at that committee meeting the Navigable Waters Regulations 1958 is the relevant legislation. Regulation 48 states:

"A person shall not, in navigable waters, water ski without the approval of the Department in any water having a depth of less than 3m or within 50m of the water's edge".

So the water skiers have NEVER had the right to water ski on the lake. However, in saying that it hasn't been policed by the relevant department, being the Department of Transport, and that's mainly due to resources. However, I put it to you would you approve gazettal of the lake for water skiing activities on the lake now if there hadn't been any water skiing on the lake prior to now?

Back in the 1970's we didn't understand the sensitivities of the fragile ecosystems that exists on the fringes of freshwater lakes and the importance of the ecosystem of the interaction between the sedges and rushes on the edge of the lake. We do now. We must protect that sensitive ecosystem. We must also institute a Management Plan on the Reserve and that Management Plan should, amongst other things;

- Include appropriate engagement with the Noongar community, as outlined in the Natural Reserves Strategy; and
- Address the effects that water skiing and jet skiing activities would have on the lake.

Purpose of the Reserve.

Another area of concern raised in the petitions is the purpose of the Reserve. The report on DIS035 did not mention what the purpose of the Reserve was. Subsequent to the meeting it has been found that the purpose of the Reserve is for "Water, Camping and Conservation of Flora and Fauna".

This reports notes the response from the Department of Planning, Lands and Heritage. It mentions that recreational activities is an ancillary use for Water, Camping and Conservation of Flora and Fauna. I'm sorry but I don't see that link and I reject it outright. How is it ancillary?

Ancillary means "providing necessary support to the primary activities or operation of an organisation, system". How does water skiing provide necessary support to a use of Water, Camping and Conservation of Flora and Fauna? The historical purpose of Water is for the watering of stock as the lake was on a stock route. Similarly, the purpose of Camping was for the stockmen to camp at the site. As for an ancillary use for Conservation of Flora and Fauna, well that's just laughable and pure Yes Minister bureaucratic rubbish. I reject that interpretation by the Department outright.

Officer Comment (Executive Infrastructure and Environment):

The points raised are noted.

Council officers are obligated to implement the decisions of Council. City staff are currently progressing the August 2017 resolution (DIS035), in particular, City staff have commenced the process of seeking expressions of interest from appropriately qualified consultants to undertake Noongar consultation as resolved.

In relation to the legality of water skiing at the lake, it is noted that historically this activity has occurred illegally however it has not been enforced by the relevant agency. The City may permit the activity under its Local Government Property Local Law as is the intent of the August DIS035 resolution, however advice from the Department of Transport is that this there is no precedent of a Local Government taking this action as ski areas are generally set aside through gazettal. On this basis, item 4 of the August resolution which is to temporarily permit the use of speed boats on Lake Mullocullop pending its gazettal will not be actioned as is could potentially leave the City exposed to risks associated with the complexity in management of such activities.

The use of speed boats for water skiing is therefore prohibited until the area is gazetted for the purpose by the Department of Transport.

The preparation of a Management Plan for the reserve can be undertaken however it will require the allocation of internal resources. A timeframe for its completion will require some further consideration.