

2.3: CITY OF ALBANY ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES AND TRADING LOCAL LAW 2011

Land Description	: Whole of Municipality
Proponent	: City of Albany
Attachment	: Draft City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011
	: Schedule of Submissions
Responsible Officer	: E/Director Planning & Development Services (G Bride)

IN BRIEF

- Council is requested to resolve to adopt the *Activities on Thoroughfares and Public Places and Trading Local Law 2011* that is not significantly different from what was proposed.

**ITEM 2.3: RESPONSIBLE OFFICER RECOMMENDATION 1
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILOR MATLA
SECONDED: COUNCILLOR WELLINGTON**

THAT Council NOTES the staff recommendations within the attached Schedule of Submissions and ENDORSES those recommendations.

CARRIED 10-0

**ITEM 2.3: RESPONSIBLE OFFICER RECOMMENDATION 2
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

**MOVED: MAYOR EVANS
SECONDED: COUNCILLOR DUFTY**

THAT Council in accordance with Section 3.12 of the *Local Government Act 1995 (as amended)*, AGREES:

- (a) To ADOPT the *City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011* (as detailed in the attachments) that is not significantly different from what was proposed;**
- (b) Advertise the *City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011* in the *Government Gazette*;**
- (c) Provide a copy of the *City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011* to all relevant Ministers;**
- (d) Give local public notice:**
 - (i) stating the title of the local law;**
 - (ii) summarising the purpose and effect of the local law;**
 - (iii) specifying the dates the local law; and**
 - (iv) advising where copies of the local law may be inspected or obtained.**

**CARRIED 10-0
ABSOLUTE MAJORITY**

BACKGROUND

1. Council at its Ordinary Meeting of 15 February 2011 commenced the process to review the *City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011*.
2. As required by s3.12(3) of the *Local Government Act 1995*, state-wide public notice was given for a period commencing 26 March 2011 and concluding on 13 May 2011 stating that:
 - (a) the City was proposing to make the *Activities on Thoroughfares and Public Places and Trading Local Law 2011* and a summary of its purpose and effect;
 - (b) a copy of the proposed local law could be inspected or obtained at the City's offices; and
 - (c) written submissions about the proposed local law may be made to the City until 13 May 2011.

DISCUSSION

3. Details are contained in the attached Schedule of Submissions.
4. Under Section 3.13 of the *Local Government Act 1995* after the advertising process has been completed the City needs to determine whether any amendments it wishes to make will be 'significantly different' to the advertised version. If so the process for making a Local Law needs to recommence (ie. readvertising). In this instance it is considered that the amendments identified in the schedule of submissions are minor in nature and Council can proceed to adopt the *Activities on Thoroughfares and Public Places and Trading Local Law 2011*.
5. 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 amendment local law.

Purpose

6. The purpose of the local law is to regulate trading and other activities on thoroughfares and public places.

Effect

7. The effect of the local law is to allow some activities only under permit, and prohibit some activities, on thoroughfares and in public places.

GOVERNMENT CONSULTATION

8. As required by section 3.12(3)(b) of the *Local Government Act 1995*, a copy of the proposed local law was provided to the Minister for Local Government and a submission was received from the Department of Local Government providing feedback, which has been incorporated into the proposed local law. Details are contained in the attached Schedule of Submissions.

PUBLIC CONSULTATION / ENGAGEMENT

9. A local and a statewide public notice was published in the Great Southern Weekender and the West Australian newspapers respectively inviting submissions from the community on the proposed *Activities on Thoroughfares and Public Places and Trading Local Law 2011* by 13 May 2011.
10. At the close of the advertising period for community submissions one comment on the proposed *Activities on Thoroughfares and Public Places and Trading Local Law 2011* had been received.

STATUTORY IMPLICATIONS

11. Section 3.12 and 3.13 of the Local Government Act states—

“3.12 Procedure for Making Local Laws

- (1) *In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.*
- (2) *At a Council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to –*
 - a) *give Statewide public notice stating that –*
 - i) *the local government proposes to make a local law the purpose and effect of which is summarised in the notice;*
 - ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
 - b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
 - c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submission, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.
(* Absolute Majority Required).*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice:*
 - a) *stating the title of the local law;*
 - b) *summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and*
 - c) *advising that copies of the local law may be inspected or obtained from the local government’s office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of the local laws they have made*

3.13. Procedure where significant change in proposal

If during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.”

STRATEGIC IMPLICATIONS

13. This item relates to the following elements from the Albany Insight – Beyond 2020 Corporate Plan:

Community Vision:
Nil.

Priority Goals and Objectives

Goal 4: Governance.....The City of Albany will be an industry leader in good governance and service delivery.

Objective 4.3 The City of Albany will deliver excellent community services that meet the needs and interests of our diverse communities.

City of Albany Mission Statement

At the City of Albany we respect community needs and foster community involvement in decision making.

POLICY IMPLICATIONS

14. The local law provides guidance on activities that are permitted with or without a permit or prohibited on thoroughfares and public places. The local law does not conflict with any existing Council town planning policies (for example relating to private land).

RISK IDENTIFICATION & MITIGATION

15. The risk identification and categorisation relies on the City's Risk Management Framework.

Risk	(L)	(C)	Risk Rating	Mitigation
<i>If the proposed local law is not adopted the current Activities in Thoroughfares and Public Places and Trading Local Law 2001 will continue albeit sections are out-of-date, and failure to review local law (which is required every 8 years) could result in the Governor repealing the Local Law.</i>	Possible.	Minor	Medium	<i>Adoption of the Activities on Thoroughfares and Public Places and Trading Local Law 2011 by Council.</i>

FINANCIAL IMPLICATIONS

16. Cost will be incurred with respect to the advertising and eventual publication in the Government Gazette of the Local Law. This cost would be approximately \$1500 in addition to staff time finalising the adoption of the proposed local law.
17. Staff time has been expended in the preparation of the Local Law which has been undertaken within existing budget and resources.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

18. Council has two options in relation to the adoption of the *Activities on Thoroughfares and Public Places and Trading Local Law 2011*:
- (a) Option One: **AGREE** to adopt the *Activities on Thoroughfares and Public Places and Trading Local Law 2011*;
 - (b) Option Two: **REFUSE** to adopt the *Activities on Thoroughfares and Public Places and Trading Local Law 2011*.
- 18 Section 3.16 of the *Local Government Act 1995* requires that all of the local laws of a local government must be reviewed within an eight year period after their commencement to determine if they should remain unchanged or be repealed or amended. The current Local Law was gazetted in 2001 and therefore was due for review in 2009.

SUMMARY CONCLUSION

19. It is recommended that Council resolve to adopt the *City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011*.

Consulted References	<i>City of Albany Activities in Thoroughfares and Public Places and Trading Local Law 2001</i>
File Number (Name of Ward)	All Wards
Previous Reference	OCM 15/02/2011 – Item 1.8