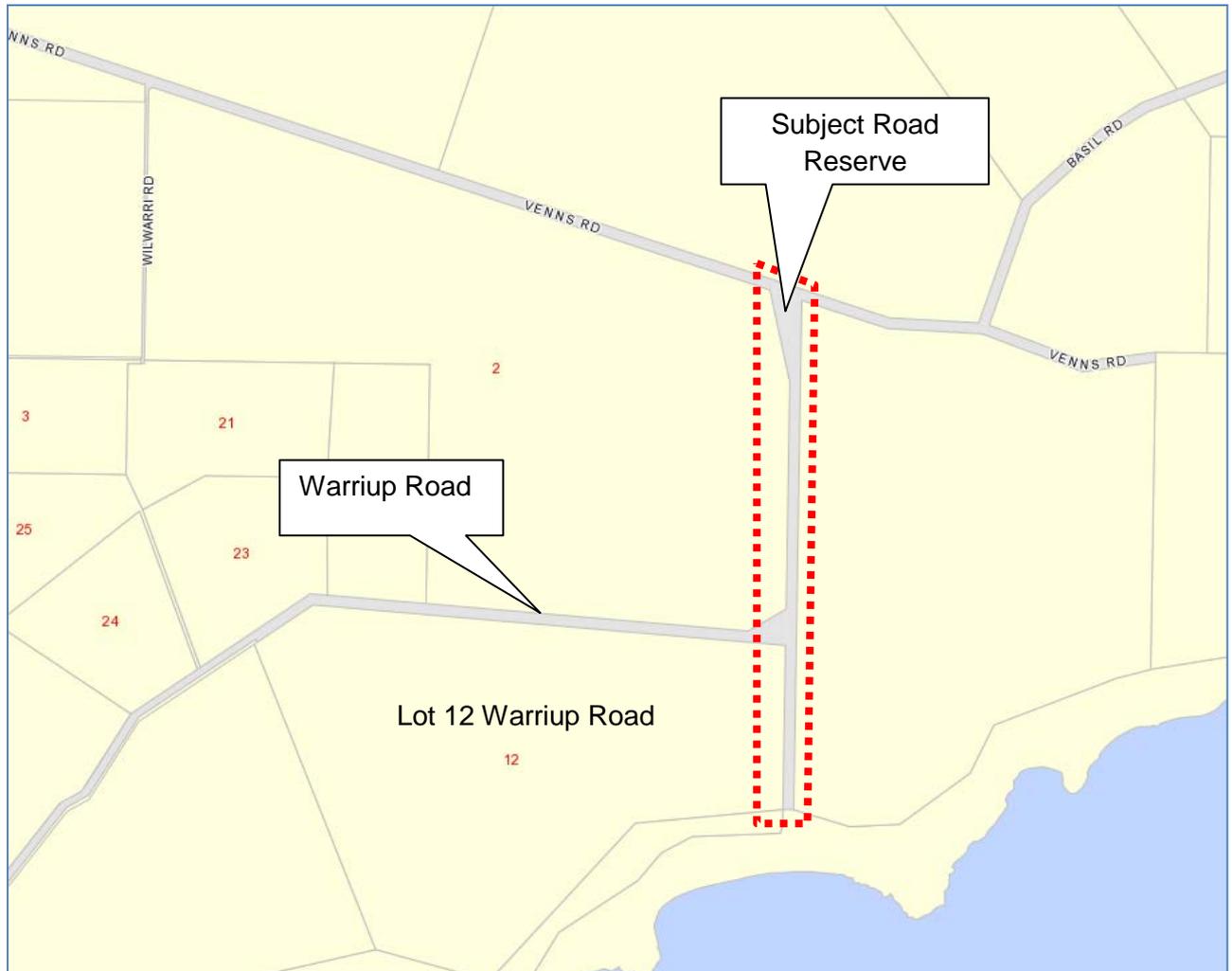


4.3: TEMPORARY CLOSURE OF PORTION OF WARRIUP ROAD (OFF VENNIS ROAD), METTLER

Land Description	: Warriup Road, Mettler
Proponent	: City of Albany
Owner	: State of WA
Responsible Officer(s)	: Executive Director Corporate Services (G Adams)

Maps and Diagrams:



IN BRIEF

- In June 2005, Council resolved to temporarily close portion of Warriup Road at the intersection of Vennis Road by installing a lockable gate, with access being restricted to service providers, bushfire brigades and adjoining owners. This closure order expired in June 2009. Council is requested to consider reinstating the temporary closure order over portion of Warriup Road intersecting with Vennis Road, Mettler.

**ITEM 4.3: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council:

- i) **REINSTATE** the temporary road closure order, pursuant to section 3.50 of the *Local Government Act 1995*, for the extension of Warriup Road where it intersects with Venns Road, without the need for public notice pursuant to section 3.50A of the *Local Government Act 1995*;
- ii) **AGREES** that the lockable fire gate at the intersection of Warriup and Venns Road remain in place, with key access being provided to service providers, bushfire brigades and adjoining owners;
- iii) **AGREES** that this temporary closure order will remain in place for an undefined period of time until such time as the resources are made available to consider the broader issue of public access to coastal areas in a manner which considers impact on private landowners and where the natural environment can be protected;
- iv) **ADVISE** all persons having recently made a submission on the public call for expressions of interest of this resolution.

BACKGROUND

1. At its meeting held on 21 June 2005, Council considered two requests from residents to close the unmade road reserve which is the extension of Warriup Road, intersecting with Venns Road. This was a renewal of previous temporary closure orders that had been granted, but had expired.
2. The temporary closure was sought because adjoining owners had experienced problems with people leaving the road reserve to access the coast line and trespassing through their properties, cutting tracks and causing damage to their fences and land.
3. Council supported the request to temporarily close this road reserve, with a lockable gate being installed at the intersection of Warriup Road and Venns Road, and key access being restricted to service providers, bushfire brigades and adjoining landowners.
4. In recent months, the City was approached by a ratepayer, who is a member of the local Noongar community, who was interested in accessing this lockable gate, in order to then pass through Lot 12 Warriup Road. The ratepayer advised they had a private arrangement with the owners of Lot 12 Warriup Road to pass through their land to access traditional fishing grounds along the coast.
5. It was the decision of the (previous) Chief Executive Officer to consider providing key access to this ratepayer; however an expression of interest from other members of the public was called through an advertisement in the local newspaper, to ensure that the City was being fair and equitable to all people who may wish to access this area.

****REFER DISCLAIMER****

6. The result of this call for expressions of interest was one member of the public supporting greater access to the coastline and eighteen (18) submissions against the proposal. Of these submissions received, all of the adjoining and nearby owners in the vicinity of the subject road reserve objected to the proposal to allow access to this land.
7. Many of the objections received raised significant concerns about allowing access to this road or any action to construct the road, on the following basis:
 - a. It will invite people to trespass on private property and potentially lead to an increase of damage to fence lines and private land;
 - b. This is a fragile and significant environmental area and uncontrolled access will have a damaging impact on the values of the area, causing erosion, loss of threatened species, spread of dieback etc; and
 - c. This is a rugged stretch of coast line and uncontrolled access to the land may be damaging to the limestone cliffs and sand dunes, as well as being potentially dangerous for members of the public accessing the land.
8. One of the objections received was from the owners of Lot 12 Warriup Road, who advised that while they had given keys to people in the past; this had encouraged unauthorised access, which resulted in significant damage to their property. These owners verbally advised that they no longer wished people to have keys to their property, as the arrangement was causing damage to their land and the adjoining coastal environment.

DISCUSSION

9. The request by one ratepayer to allow access to the locked gate was considered on the basis that they had an arrangement with the owners of Lot 12 Warriup Road, however in view of the significant negative reaction received during the call for expressions of interest, it is considered that the best option at the present time is to continue restricting public access to this road reserve.
10. It is noted that the subject road reserve does lead directly to the coastal reserves, however the terrain in this area is steep and it leads to cliffs which are difficult to traverse. The tracks through Lot 12 Warriup Road provide an easier option for vehicular access to the coast. It is not considered that allowing direct access from the subject road reserve to the coast line is feasible without considering and controlling the potential erosion and safety impacts.
11. It is noted that this road reserve is the only public road leading to the coast over a 17km stretch of land. As such, it is not considered appropriate to close the road permanently at this time.
12. Over the longer term, the City will need to consider access to coastal areas generally, however it is recommended that this be done in a coordinated and thorough manner, considering the fragile natural environment and the best means to control public access to ensure safety for users, protection of adjoining landowners, minimising impacts on the natural environment etc.

13. This study on coastal access needs to occur when Council decides it is a priority and this is reflected in a budget allocation being provided to undertake the study and then to construct the public access.

GOVERNMENT CONSULTATION

14. No government agency has been consulted on this matter. It is not proposed to alter the current arrangements for servicing authorities to access this lockable gate if needed. As such, there is no other requirement to consult with other government agencies.

PUBLIC CONSULTATION / ENGAGEMENT

15. Expressions of interest to access this temporarily closed road were called from the general public via an advertisement in the local newspaper, which resulted in the significant negative reaction to the proposal.
16. Section 3.50 of the *Local Government Act 1995* states that a road may only be temporarily closed for a period of longer than 4 weeks if public notice has first been given.
17. Section 3.50A of the *Local Government Act 1995* states that a local government may temporarily close a road without giving local public notice if the closure is unlikely to have a significant adverse effect on users of the thoroughfare.
18. From the appearance of this closed road, the land is not being regularly used as a means of vehicular access, as much of the vegetation in the area has regrown. In addition, the adjoining and nearby owners support the continuation of the closed status of this road.
19. In view of the fact that this closed road is:
 - a. Not being used often (if at all);
 - b. It remains unconstructed and largely untrafficable;
 - c. Majority of the nearby and adjoining owners oppose the re-opening of this road reserve; and
 - d. Access to this lockable gate will be retained for servicing authorities, bushfire brigades and adjoining landowners;

it is not considered that further public notice is necessary and that clause 3.50A of the *Local Government Act 1995* would apply to this situation.

STATUTORY IMPLICATIONS

20. Section 3.50 of the *Local Government Act 1995* states that a local government may close any thoroughfares to the passage of vehicles for a period of up to 4 weeks. Approval for a period of longer than 4 weeks may only be granted once public notice has been given.
21. Section 3.50A of the *Local Government Act 1995* states that a road may be temporarily closed for a period of longer than 4 weeks without giving public notice, if it is unlikely to have a significant adverse effect on users of the thoroughfare.

22. Section 3.50 of the *Local Government Act 1995* previously had a conditional clause (3) which stated that the temporary closure order could not be granted for longer than 4 years, though that would not prevent the making of another order that continues the closure at the expiry of the term. This requirement was in place at the time of Council making its previous resolution in June 2005; however this clause 3.50(3) restricting the term to 4 years has since been deleted from the *Local Government Act 1995*. As such, should Council support the reinstatement of the temporary closure, it will do so without an expiry date.

STRATEGIC IMPLICATIONS

23. This item relates directly to the following elements of the City of Albany Strategic Plan (2011-2021)

Key Focus Area

Organisational Performance

Community Priority

Policy and Procedures

Proposed Strategies

Develop clear processes and policies and ensure consistent, transparent application across the organisation.

POLICY IMPLICATIONS

24. There are no policy implications relevant to this item.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Rating	Mitigation
<i>Council does not support the reinstatement of the temporary closure order, meaning the road reserve would be opened to public access in an uncontrolled manner.</i>	<i>Possible</i>	<i>Moderate – environmental concerns, negative public reactions, potential public safety issues.</i>	<i>Medium</i>	<i>Support the temporary closure request and maintain the status quo, with a lockable fire gate access at the intersection of Venns and Warriup Roads.</i>

FINANCIAL IMPLICATIONS

26. There are no financial implications relevant to this item, however it is noted that should Council wish to review the issue of public access to coastal areas at some point in the future, an appropriate budget allocation needs to be provided to allow this study to occur.

LEGAL IMPLICATIONS

27. The reinstatement of the temporary closure order for portion of Warriup Road, intersecting with Venns Road, will legitimise the physical restrictions to public access that currently exist in this location, despite the previous closure order now having lapsed.

ALTERNATE OPTIONS

28. Council may:
- a. Support the recommendation to reinstate the temporary closure order for the portion of Warriup Road intersecting with Venns Road, for an unspecified period and until such time as a more detailed investigation of public access to coastal areas in this location can be undertaken; or
 - b. Allow public access to the road reserve, either through removing the existing fire gate or providing access to this lockable gate.

SUMMARY CONCLUSION

29. Council has previously resolved to temporarily close the unmade road reserve, being the extension of Warriup Road where it intersects with Venns Road, at the request of adjoining and nearby owners in response to their concerns regarding trespass, property damage and environmental degradation. In view of the negative public reaction to the recent call for expressions of interest to access the unmade road reserve, it is considered prudent to reinstate this temporary closure order until such time as Council can investigate the broader issue of access to coastal areas in a controlled and safe way.

Consulted References	:	Local Government Act 1995
File Number (Name of Ward)	:	RD.RDO.1
Previous Reference	:	OCM 21/06/2005 Item 13.3.6