



MINUTES

COMMUNITY AND CORPORATE SERVICES COMMITTEE

03 December 2019

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.

Community & Corporate Services Committee
Terms of Reference

Functions: The Committee is responsible for the following functions:

Community Services:

The delivery of “*Community Health & Participation Objectives*” contained in the City of Albany Strategic Plan:

- To build resilient and cohesive communities with a strong sense of community spirit.
- To create interesting places, spaces and events that reflect our community’s identity, diversity and heritage.
- To develop and support a healthy inclusive and accessible community.

Corporate Services:

Monitoring and commenting on the financial health and strategies of Council.

The delivery of “*Leadership Objectives*” contained in the City of Albany Strategic Plan:

- To establish and maintain sound business and governance structures.
- To provide strong, accountable leadership supported by a skilled & professional workforce.
- To engage effectively with our community.

Economic Development:

Considering and recommending to Council ways to strengthen the local Albany economy.

The delivery of “*Smart, Prosperous and Growing Objectives*” contained in the City of Albany Strategic Plan:

- To strengthen and grow our region’s economic base.
- To develop a smart city that supports economic growth.
- To develop and promote Albany as a unique and sought-after visitor location.

Governance:

- Review of Council's policies;
- Supporting Elected Members in their governance role;
- Developing amendments to existing, or new, local laws;
- Consideration of the Council's draft Strategic Plan;
- Consideration of the Council's draft Annual Report;
- Matters pertaining to the conduct of the Council's Annual General Meeting;
- Consideration of the proposed meeting schedule for Council and its Committees;
- Receiving reports from Council representatives on outside bodies, and from other bodies as determined by Council; and
- Considering matters not falling within the terms of reference of any other Council committee.

Service Complaint Internal Review:

- Responsible for reviewing unresolved service complaints, in accordance with the Service Complaints Policy.

It will achieve this by:

- Developing policies and strategies;
- Establishing ways to measure progress;
- Receiving progress reports;
- Considering officer advice;
- Debating topical issues;
- Providing advice on effective ways to engage and report progress to the Community; and
- Making recommendations to Council.

Membership: Open to all elected members

Meeting Schedule: Monthly

Meeting Location: Council Chambers

Directorates: Corporate & Community Services

Executive Officer(s): Executive Director Corporate Services,
Executive Director Community Services

Delegated Authority: None

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1. **DECLARATION OF OPENING** The Chair declared the meeting open at 6.00pm

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**

Councillors:

Mayor	D Wellington
Member	R Hammond
Member	G Stocks
Member	E Doughty
Member	M Benson-Lidholm
Member	T Sleeman
Member	J Shanhun
Member	A Goode JP
Member	S Smith (Deputy Chair)
Member	C Thomson
Member	R Stephens

Staff:

Chief Executive Officer	A Sharpe
Acting Executive Director Corporate Services	D Olde
Executive Director Community Services	S Kay
Manager Governance & Risk	S Jamieson
Meeting Secretary	C Crane

Apologies:

Member	P Terry (Chair)
Member	R Sutton

Members of Public

4. DISCLOSURES OF INTEREST

Name	Committee/Report Item Number	Nature of Interest
Nil.		

5. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE – Nil.

6. PUBLIC QUESTION TIME – Nil.

7. PETITIONS AND DEPUTATIONS – Nil.

8. CONFIRMATION OF MINUTES

MOTION

MOVED: COUNCILLOR GOODE

SECONDED: COUNCILLOR DOUGHTY

THAT the minutes of the Community and Corporate Services Committee held on 12 November 2019, as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 11-0

9. PRESENTATIONS – Nil.

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS – Nil.

CCS197: DELEGATED AUTHORITY REPORTS – SEPTEMBER TO OCTOBER 2019

Proponent : City of Albany
Attachments : Executed Document and Common Seal Report
Report Prepared by : Personal Assistant to the ED Corporate Services (H Bell)
Responsible Officer : Chief Executive Officer (A Sharpe)

Background:

In compliance with Section 9.49A of the *Local Government Act 1995* and Part IV of the *Local Government (Functions and General) Regulations 1996* the attached report applies to the use of the Common Seal and the signing of documents under Council's Delegated Authority:

- Delegation: 006 - SIGN DOCUMENTS ON BEHALF OF THE CITY OF ALBANY (Chief Executive Officer)
- Delegation: 009 - GRANT FUNDING, DONATIONS, SPONSORSHIP
- Delegation: 018 - CHOICE OF TENDER, AWARD CONTRACT

RECOMMENDATION

**CCS197: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the Delegated Authority Reports 16 October 2019 to 15 November 2019 be RECEIVED.

CCS197: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR SLEEMAN
SECONDED: COUNCILLOR SHANHUN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS197: RESPONSIBLE OFFICER RECOMMENDATION

THAT the Delegated Authority Reports 16 October 2019 to 15 November 2019 be RECEIVED.

**CCS198: PROPOSED NEW LEASE – TERRY HULKES – LOT 17
CHEYNE ROAD, CHEYNE BEACH – RESERVE 878**

Land Description	: Portion Crown Reserve 878 Lot 7442 on Deposited Plan 214689, the subject of Head Certificate of Title Volume LR3082 Folio 959, Cheyne Beach
Proponent	: Terry Hulkas
Owner	: Crown (City of Albany under Management Order)
Report Prepared By	: Team Leader Property and Leasing (T Catherall)
Responsible Officers:	: Acting Executive Director Corporate & Commercial Services (D Olde)

STRATEGIC IMPLICATIONS

1. 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 establish and maintain sound business and governance structures.
 - **Community Priority:** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflect the level of associated risk and are adequately explained to community.

Maps and Diagrams:



In Brief:

- Council is requested to consider the renewal of lease to Terry Hulkes over Lot 17 Cheyne Road, Cheyne Beach for accommodation associated with the commercial fishing industry at Cheyne Beach.
- The previous 5 year lease expired on 31 July 2019. During the term of the lease the tenant was required to construct an accommodation building, as part of the development approval. While the tenant had developed the site a dwelling had not been completed.
- City Officers have been working with the tenant to satisfy the outstanding development condition. A further development approval and building permit have recently been issued in October 2019.
- It is proposed to include a development special condition that the tenant must complete the accommodation building to meet all lease, planning and building conditions within the initial 4 year term of the lease.
- It is recommended the new lease is approved.

RECOMMENDATION

**CCS198: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT Council APPROVE a lease over Lot 17 Cheyne Road, Cheyne Beach being portion of Reserve 878 to Terry Hulkes, subject to:

- a) Lease purpose being “Accommodation associated with the Commercial Fishing Industry” in accordance with the Management Order for the reserve.**
- b) Lease is conditional upon the tenant continuing to operate under a commercial fisherman’s licence for the Cheyne Beach area issued by the Department of Fisheries Western Australia.**
- c) Lease area being approximately 2178m² as determined by survey.**
- d) Initial lease rent being \$2,950 plus GST per annum as determined by a current market valuation provided by a licensed Valuer.**
- e) Lease rent reviews by market valuation every 3 years with Consumer Price Index applied for intervening years.**
- f) Lease commencement date being 1 August 2019, for a term of 4 years with two further options of 6 years and 10 years.**
- g) Lease special condition to document that the tenant must complete the accommodation building within the initial 4 year term. Non-compliance with this condition will give the City the right to end the lease, with no further terms considered.**
- h) All costs associated with the ongoing operations of the lease property being payable by the tenant.**
- i) All costs associated with the preparation, execution and completion of the lease documentation being payable by the tenant.**
- j) Pursuant to Section 18 of the *Lands Administration Act 1997*, the Minister for Planning, Lands and Heritage consent being obtained.**
- k) Pursuant to Section 3.58 of the *Local Government Act 1995* advertising requirements.**
- l) Lease being consistent with City Policy – Property Management (Leases and Licences) and Cheyne Beach Planning Policy.**

CCS198: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR DOUGHTY
SECONDED: COUNCILLOR BENSON-LIDHOLM

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS198: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council APPROVE a lease over Lot 17 Cheyne Road, Cheyne Beach being portion of Reserve 878 to Terry Hulkes, subject to:

- a) Lease purpose being “Accommodation associated with the Commercial Fishing Industry” in accordance with the Management Order for the reserve.
- b) Lease is conditional upon the tenant continuing to operate under a commercial fisherman’s licence for the Cheyne Beach area issued by the Department of Fisheries Western Australia.
- c) Lease area being approximately 2178m² as determined by survey.
- d) Initial lease rent being \$2,950 plus GST per annum as determined by a current market valuation provided by a licensed Valuer.
- e) Lease rent reviews by market valuation every 3 years with Consumer Price Index applied for intervening years.
- f) Lease commencement date being 1 August 2019, for a term of 4 years with two further options of 6 years and 10 years.
- g) Lease special condition to document that the tenant must complete the accommodation building within the initial 4 year term. Non-compliance with this condition will give the City the right to end the lease, with no further terms considered.
- h) All costs associated with the ongoing operations of the lease property being payable by the tenant.
- i) All costs associated with the preparation, execution and completion of the lease documentation being payable by the tenant.
- j) Pursuant to Section 18 of the *Lands Administration Act 1997*, the Minister for Planning, Lands and Heritage consent being obtained.
- k) Pursuant to Section 3.58 of the *Local Government Act 1995* advertising requirements.
- l) Lease being consistent with City Policy – Property Management (Leases and Licences) and Cheyne Beach Planning Policy.

BACKGROUND

2. Lot 17 Cheyne Road is located within Crown Reserve 878 Cheyne Beach.
3. The reserve is under management order O202922 issued to the City of Albany with the power to lease or licence for any term not exceeding 21 years subject to the consent of the Minister for Planning, Lands and Heritage. The current purpose of this reserve is “Recreation, Camping, Holiday Accommodation, Accommodation Associated with the Fishing Industry, Fire Station and Supporting or Beneficial Communications Operations”.
4. The reserve currently hosts 29 holiday accommodation leases along Baxteri Road, 6 leases for accommodation associated with the commercial fishing industry along Cheyne Road and 2 commercial fishing licences for access and net drying operations. The City’s fire shed is situated on Lot 15 within this reserve.
5. In November 2012 Council approved a new 5 year lease to Terry Hulkes to enable the development of the site for fishing accommodation when fishing from Cheyne Beach. The term of the lease was considered appropriate to develop the site and the City was reviewing leases in coastal locations that may be subject to erosion, inundations and other adverse coastal conditions.
6. The lease commenced 1 August 2014 and expired 31 July 2019. The tenant continues to occupy under lease holding over provisions. Current annual lease rental payable to the City, being \$2,819 plus GST.
7. The tenant has requested a new lease for a maximum term in order to complete the accommodation building and secure long term tenancy to continue his commercial fishing activities at Cheyne Beach.

DISCUSSION

Development approval

8. To satisfy lease conditions and development approval the tenant was required to construct an accommodation building and associated infrastructure on the land to support the commercial fishing activities. The tenant was also responsible for providing adequate electricity supply, adequate potable water supply, an effluent disposal system and parking.
9. A development approval and building permit was issued in 2015 for the works. Noting the building permit was extended in February 2017.
10. While the tenant has developed the site with access driveway, work shed, rain water tank and septics, an accommodation building has not been completed within the term of the lease.
11. City Officers have been working with the tenant to satisfy the outstanding conditions prior to progressing a new lease. This has included discussions around a range of suitable accommodation buildings.
12. A way forward has been agreed and a new development approval (P2190530) and building permit (163789) have been issued in October this year, in accordance with the Cheyne Beach Planning Policy.

Lease

13. A lease can be considered with commercial fisherman seeking fisherman accommodation at Cheyne Beach, provided they meet the following requirements:
 - a. The tenant is actively engaged in the Cheyne Beach commercial fishing industry;
 - b. The tenant holds a current commercial fishing licence issued by the Department of Fisheries Western Australia; and
 - c. The tenant will use the fisherman accommodation within the lease area for own or staff use only.

14. It is noted that the tenant has complied with the above lease preconditions.
15. It is recommended the lease term be an initial term of 4 years with two further options of 6 years and 10 years (20 years in total). The 20 year term is consistent with other commercial fishing leases at Cheyne Beach.
16. The initial 4 year term is based on the period allowable for a building permit of 2 years, with consideration for one 2 year extension.
17. Importantly, the lease will include a special condition that the tenant must build the accommodation associated with the tenant's permitted use of the leased area within the initial 4 year term.
18. In carrying out the construction of the accommodation building the tenant must comply with the terms of the lease, the Cheyne Beach Planning Policy, the building and planning approvals and the Management Order over the land.
19. If the tenant fails to comply the City may end the lease with no further terms considered.
20. As such the tenant will be required to vacate, remove all infrastructure and make good the land.
21. The table below summarises the essential terms of the proposed lease:

ITEM	DETAILS
Tenant	Terry Hulkes
Land Description	Portion Crown Reserve 878 Lot 7442 on Deposited Plan 214689, the subject of Head Certificate of Title Volume LR3082 Folio 959 Cheyne Beach
Lease Area	Lot 17 Cheyne Road, being an area of approximately 2178m ²
Land Ownership	Crown (City of Albany under Management Order)
Building Ownership	Tenant
Permitted Use	Accommodation associated with the commercial fishing industry
Term	Initial term of 4 years with two further options of 6 years and 10 years (20 years in total)
Initial Rent	\$2,950 per annum plus GST
Rent Review	Market valuation every 3 years with Perth All Groups CPI applied on the anniversary for intervening years
Outgoings	Tenant responsible for all outgoings
Utilities	Tenant responsible for all utilities
Maintenance	Tenant responsible for all maintenance
Special Conditions	<ol style="list-style-type: none"> 1. Lease is conditional upon the tenant continuing to operate under a commercial fisherman's licence issued by the Department of Fisheries WA. 2. Tenant must complete the accommodation building within the initial 4 year term of the lease. Non-compliance gives the City the right to end the lease with no further term considered. 3. Tenant acknowledges the land and services may be affected by adverse coastal processes given the proximity to the coast and occupy the land and buildings at own risk.

22. The tenant has agreed in principle with the above position, subject to Council and Department of Planning, Lands and Heritage approval.
23. The remaining terms of the lease agreement will be developed in line with City Policy – Property Management (Leases and Licences).

GOVERNMENT & PUBLIC CONSULTATION

24. The Department of Planning, Lands and Heritage will be consulted as it is a requirement of Section 18 of the *Land Administration Act 1997* that the Minister’s consent is obtained.
25. Section 3.58 of the *Local Government Act 1995* defines the requirements for the disposal of property, including leased land and buildings. The Act requires the following:
 - a. A local government must give local public notice of the proposed lease inviting submissions from the public, for a period of two weeks.
 - b. Any submissions are to be considered by Council and their decision with regard to those submissions, to be recorded in the minutes.
 - c. A local government can then proceed with the lease.
26. The new lease will be advertised to comply with the requirements of Section 3.58 of the *Local Government Act 1995*.
27. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Consult	Advertise proposed lease in local newspaper inviting submissions from the public	A 2 week period following Council endorsement of agenda item	Open	Section 3.58 of the <i>Local Government Act 1995</i>

STATUTORY IMPLICATIONS

28. Section 18 of the *Land Administration Act 1997* states that a person shall not assign, sell, transfer or otherwise deal with interests on Crown land, create, or grant an interest in Crown land without the prior approval in writing of the Minister for Planning, Lands and Heritage.
29. As this is Crown land, under Management Order held by the City, the Minister’s consent will be sought.
30. The *Aboriginal Heritage Act 1972* applies to any place or object of importance to persons of Aboriginal descent and Section 17 of this Act makes it an offence to destroy, damage or alter in any way an Aboriginal site or object. This Act applies to known and unknown sites.
31. In past discussions with the local Noongar community regarding the Cheyne Beach area, including visits on site, it is known to officers that there are areas in this locality of significance to the Noongar community. A full Aboriginal Heritage Survey was undertaken in 2015 to consider a range of future proposals in the Cheynes locality to manage any risk of disturbing Aboriginal cultural heritage.
32. Any future development needs to be considered in the context of the recommendation of the Heritage Survey. It is noted that these matters have been considered as part of the development application and approval has been provided for the proposed development.

POLICY IMPLICATIONS

- 33. Council adopted a revised Property Management (Leases and Licences) Policy in July 2017.
- 34. The Policy aims to ensure that all requests for leases and licences will be treated in a fair and equitable manner using open and accountable methodology and in line with statutory procedures.
- 35. The recommendation is consistent with the Policy.
- 36. The proposed lease complies with the City’s Cheyne Beach Planning Policy.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Business Operation, Reputation & Financial. <i>Reputation: lease not approved – may limit fishing operations at Cheyne Beach</i>	Unlikely	Minor	Low	Seek to negotiate terms to Council satisfaction
<i>Reputation: New lease not approved – tenant to remove all existing infrastructure and make good the land</i>	Unlikely	Minor	Low	City to manage tenant’s reaction in a measured way and ensure open communication
<i>Opportunity: To provide support to the Cheyne Beach commercial fishing industry given the fishing industries historic and economic association with the Cheynes area and for the City to receive commercial rental income</i>				

FINANCIAL IMPLICATIONS

- 38. All costs associated with the lease documentation and development works are the responsibility of the tenant.
- 39. The lease rental of \$2,950 per annum plus GST will be placed into the Cheyne Beach Improvement Reserve for the purpose of facilitating community maintenance and enhancement projects in the Cheyne Beach locality.

LEGAL IMPLICATIONS

- 40. The Deed will be prepared by City’s lawyers with enforceable terms and conditions, at the tenant’s expense.

ENVIRONMENTAL CONSIDERATIONS

- 41. The City is currently considering a Coastal Hazard Risk Management and Adaption Plan (CHRMAP) to help plan the management of future coastal erosion at Emu Point to Middleton Beach.
- 42. It is noted that Cheyne Beach is not in the current plan however the new lease does provide an opportunity to ensure the tenant is aware of potential impact of coastal erosion inundation, sea level rises and other adverse conditions given the proximity to the coast.
- 43. Further, indemnification clauses will be included in the lease such that the City is not liable for any loss or damage by the tenant by any reason arising from adverse coastal processes.

ALTERNATE OPTIONS

- 44. Council may:
 - a. Approve the new lease request; or
 - b. Decline the request.

45. Should Council decline the lease, the tenant will need to work with the City to find an alternate location should he wish to continue commercial fishing activities at Cheyne Beach. This may result in early closure of fishing operations given the limited availability of suitable land and the cost to relocate.
46. The tenant may be required to vacate the property, demolish and remove all infrastructure and make good the land.

CONCLUSION

47. Terry Hulkes, the existing tenant over Lot 17 Cheyne Road, Cheyne Beach has requested a new lease to continue commercial fishing operations from Cheyne Beach.
48. To comply with planning and building approvals the tenant must complete an accommodation building within the initial 4 year term of the lease. Non-compliance with this special condition in the lease will give the City the right to end the lease.
49. Given the proximity of the site to the coast the tenant agrees to occupy the site at their own risk and indemnifies the City against any loss or claim resulting from occupation of the site.
50. The tenant has met all of the lease preconditions and the proposed lease is in accordance with the Management Order over the land.
51. Taking into consideration tenant investment in developing the site to date and agreement to comply with the lease, planning and building conditions it is recommended that a new lease be granted for a term of 4 years with two further options of 6 years and 10 years (20 years in total) be supported.

Consulted References	:	<ul style="list-style-type: none"> • Property Management (Leases and Licences) Policy • Cheyne Beach Planning Policy • <i>Local Government Act 1995</i> • <i>Land Administration Act 1997</i>
File Number (Name of Ward)	:	PRO389, A5605 (Kalgan Ward)
Previous Reference	:	OCM 20/11/2012 Item 4.3 OCM 21/05/2013 Item 4.3 OCM 26/11/2013 CSF034

CCS199: BUSH FIRE BRIGADE LOCAL LAW 2019

Proponent / Owner	: City of Albany
Attachments	: Proposed local law.
Report Prepared By	: Manager Governance and Risk (S Jamieson) Manager Public Health and Safety (S Reitsema) Community Emergency Safety Manager (B Gordon)
Responsible Officers:	: Acting Executive Director Corporate & Commercial Services (D Olde)

STRATEGIC IMPLICATIONS

1. 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 establish and maintain sound business and governance structures.
 - **Community Priority:** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflects the level of associated risk and is adequately explained to the community.

In Brief:

- The purpose of the local law is to provide for the regulation, control and management of City of Albany Volunteer Bush Fire Brigades within the district of the City of Albany.
- Council is requested to approve the administrative process to MAKE the *City of Albany Bush Fire Brigade Local Law 2019*.

RECOMMENDATION

**CCS199: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

THAT Council, in accordance with section 3.12 of the *Local Government Act 1995*:

- (1) Resolves to MAKE the *City of Albany Bush Fire Brigades Local Law 2019*; and**
- (2) APPROVES the giving of State-wide public notice in order to seek public comment.**

CCS199: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR THOMSON
SECONDED: COUNCILLOR SHANHUN

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS199: RESPONSIBLE OFFICER RECOMMENDATION

THAT Council, in accordance with section 3.12 of the *Local Government Act 1995*:

- (1) Resolves to MAKE the *City of Albany Bush Fire Brigades Local Law 2019*; and
- (2) APPROVES the giving of State-wide public notice in order to seek public comment.

BACKGROUND

2. In 2013 an independent review was conducted to improve support to the Volunteer Bush Fire Brigades and overall Emergency Management.
3. At the time it was recommended that:
 - a. The current “individual brigade constitution approach” should remain for brigades in the medium term as this arrangement suits the wide variation in commitments and time across the city.
 - b. In the long-term, the issue is to be investigated with the view to achieving consistency across brigades.
4. It has been identified by both City Officers and Volunteer Bush Fire Brigade leaders that a Bush Fire Brigades Local Law should be progressed to:
 - a. Achieve consistency across brigades;
 - b. Promote a common understanding of accountabilities for both City Officers (Administration) and Brigade Officers and members.
5. As detailed in the consultation section of the report, consultation been conducted over a number of years by City Officers, working with brigade Fire Control Officers and members.

DISCUSSION

6. To initiate the local law process, Council must first resolve to MAKE the Local Law.
7. Section 3.12 of the *Local Government Act 1995* (the Act) requires the person presiding at a Council meeting ensures the purpose and effect of the proposed local law is given.
 - a. **Purpose:** The purpose of the principal local law is to provide for the regulation, control and management of City of Albany Volunteer Bush Fire Brigades within the district of the City of Albany.
 - b. **Effect:** Formalise the administrative processes will govern the establishment, management, roles and responsibilities of bush fire brigades.
8. Simplified outline of the proposed local law:
 - a. This local law is about the establishment, management, roles and responsibilities and cancellation of bush fire brigades within the municipality of the City of Albany.
 - b. **Part 1** includes preliminary provisions including the commencement date and definitions of the terms used throughout this local law.
 - c. **Part 2** provides for the establishment and cancellations of bush fire brigades by the City of Albany. It also includes provisions for the transition of bush fire brigades existing prior to the date of effect of this local law.
 - d. **Part 3** defines the objectives of bush fire brigades and details the responsibilities of the City of Albany and the Bush Fire Advisory Committee. It also addresses how the local government considers the appointment of bush fire control officers, pursuant to section 38 of the Act.
 - e. The statutory powers and duties of bush fire control officers are defined in the Act. This part allows for the local allocation of those duties (as per s.62(1)(a) of the Act).
 - f. The managerial role of the Chief Bush Fire Control officer is also defined.
 - g. **Part 4** defines the roles and responsibilities of brigade members.
 - h. **Part 5** addresses the funding of bush fire brigades by the local government.

- i. **Part 6** provides that bush fire brigades, and bush fire brigade members are to comply with the Rules Governing the Operation of Bush Fire Brigades as contained in Schedule 1.
- j. **Schedule 1:** Contains the Rules Governing the Operation of Bush Fire Brigades.
 - (i) **Part 1** contains the definitions of the terms used in the Schedule.
 - (ii) **Part 2** provides for the rules governing the Committee of the bush fire brigade including the roles and responsibilities of the Committee, membership and termination of membership of the Committee, and the rules applicable to the conduct of Committee meetings.
 - (iii) **Part 3** defines the roles and responsibilities of brigade officers, including Committee members, and the hierarchy of command at a fire.
 - (iv) **Part 4** provides for the conditions of membership of a brigade and determines the membership application process.
 - (v) **Part 5** provides for the rules that govern the suspension and termination of membership of a bush fire brigade member, including the member's right of defence.
 - (vi) **Part 6** contains the rules governing the conduct of meetings of the bush fire brigade, including ordinary meetings and annual general meeting.
 - (vii) **Part 7** contains the rules relating to financial management, declaration of interest and the dispute resolution process.
 - (viii) **Part 8** is about notices and the rules regarding proxy votes, when a brigade member is unable to attend a meeting.

GOVERNMENT & PUBLIC CONSULTATION

9. City of Albany – Fire Brigade Member Consultation:
 - a. Consultation has been facilitated over a number of years by City Officers, working with brigade Fire Control Officers and members.
 - b. Formal consultation initiated for the proposed local law on 15 January 2019.
 - c. The proposed local law was presented to a number of working groups/consultation meetings and brigade sector meetings.
 - d. On 6 May 2019, a briefing was given to the Bush Fire Advisory Group. At this meeting:
 - Brigade Member: R Lynn presented a short overview of the progress of the creation of the City of Albany Bush Fire Brigade Local Law.
 - Explained the process for the making of a local law, including the time required for public consultation.
 - e. On 1 October 2019, a report regarding the progress and status of the draft local law was prepared for the Bush Fire Advisory Committee.
 - f. The Committee was advised by City Officers that the local law is ready to be presented to Council.
10. Post Council resolution to make the local law:
 - a. A copy will be formally tabled at the next City of Albany – Bush Fire Advisory Committee (BFAC) and Local Emergency Management Committee (LEMC);
 - b. A copy of the proposed Local Law will be forwarded to the Department of Local Government; and
 - c. In accordance with section 3.12 of the Act, the City will give State-wide publication of its intention to make the Local Law and will invite submissions from the public.

STATUTORY IMPLICATIONS

11. Making a local law needs to be done in accordance with section 3.12 of the Act.
12. The resolution of Council to make the local law must be carried by **Absolute Majority**.
13. After making the local law a copy must be provided to the Minister for Local Government.

POLICY IMPLICATIONS

14. There are no direct policy implications related to this report.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Legal & Compliance <i>Local law may be disallowed if content is considered inappropriate, being outside the remit of the Local Government Act 1995 and the Bush Fires Act 1954.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Amend local law as requested.</i>
Reputation: <i>Perception by some brigade members of a lack of consultation.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<p><i>The proposed local law was prepared with considerable input from the volunteer brigade members and extensive consultation across the sector over a number of years.</i></p> <p><i>If an individual believes there feedback and concerns have not been addressed, this can be formally communicated during the formal consultation period.</i></p> <p><i>The consultation period, noting the festive season is being extended until 15 February 2020.</i></p> <p><i>A copy of this report will be sent to all Bush Fire Control Members, via email and by post to Brigade Secretaries.</i></p>

FINANCIAL IMPLICATIONS

16. Cost will be incurred with respect to the advertising and eventual publication in the Government Gazette of the Amendment Local Law.
17. This cost is estimated to be approximately \$400 in addition to staff time.

LEGAL IMPLICATIONS

18. Bush Fires Act 1954, states in part:

41. Bush fire brigades

- (1) For the purpose of carrying out normal brigade activities a local government may, in accordance with its local laws made for the purpose, establish and maintain one or more bush fire brigades and may, in accordance with those local laws, equip each bush fire brigade so established with appliances, equipment and apparatus.

62. Local government may make local laws

- (2) A local government may make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the Local Government Act 1995 for and in relation to —
- (a) the appointment, employment, payment, dismissal and duties of bush fire control officers; and
 - (b) the organisation, establishment, maintenance and equipment with appliances and apparatus of bush fire brigades to be established and maintained by the local government; and
 - (c) any other matters affecting the exercise of any powers or authorities conferred and the performance of any duties imposed upon the local government by this Act.

ENVIRONMENTAL CONSIDERATIONS

19. There are no direct environmental consideration related to this report.

ALTERNATE OPTIONS

20. The options are:
- a. Resolve to make the proposed local law a presented;
 - b. Resolve to make the proposed local law with amendments.
 - c. Council may wish to reconsider its position on the proposed local law.
21. It is recommended that amendments are considered post, public consultation.

CONCLUSION

22. It is recommended to MAKE the proposed Local Law.

Consulted References	:	<ul style="list-style-type: none"> • <i>Local Government Act 1995</i> • <i>Bush Fires Act 1954</i> • <i>Independent Review into improving support to the Volunteer Bush Fire Brigades and overall Emergency Management, Original Report 18 September 2013</i> • <i>WALGA Template Local Law</i>
File Number (Name of Ward)	:	All Wards (LE.LOL.19)
Previous Reference	:	Nil

CCS200: PROPOSED JETTIES, BRIDGES, BOAT PENS AND SWIMMING ENCLOSURES LOCAL LAW 2019

Land Description	:	(All Wards)
Attached	:	Finalised Proposed Draft - Jetties, Bridges, Boat Pens and Swimming Enclosures Local Law 2019
Report Prepared By	:	Manager Governance & Risk (S Jamieson)
Responsible Officers:	:	Chief Executive Officer (A Sharpe)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan and Corporate Business Plan:
 - **Theme:** Leadership.
 - **Objective:** To establish and maintain sound business and governance structures
 - **Community Priority:** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflect the level of associated risk and are adequately explained to community.

Maps:

- Follow this report.

In Brief:

- To seek Council's approval to seek Governor's consent prior to adopting the local law.

RECOMMENDATION

CCS200: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: ABSOLUTE MAJORITY

- (1) **NOTE** that as previously advised on 28 May 2019, in accordance with section 3.6 of the Local Government Act 1995 (the Act), the Governor's consent is required for local laws that specify areas outside of the district.
- (2) **APPROVE** the minor changes made to the proposed local law to be provided as the FINAL DRAFT of the proposed local law.
- (3) **AUTHORISE** the Chief Executive Officer to make application to the Department of Local Government to make application to the Governor on the City's behalf.

CCS200: COMMITTEE RECOMMENDATION

MOVED: MAYOR WELLINGTON
SECONDED: COUNCILLOR THOMSON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 6-5

Record of Vote

Against the Motion: Councillors Sleeman, Doughty, Stocks, Stephens and Hammond

CCS200: RESPONSIBLE OFFICER RECOMMENDATION

- (1) NOTE that as previously advised on 28 May 2019, in accordance with section 3.6 of the Local Government Act 1995 (the Act), the Governor's consent is required for local laws that specify areas outside of the district.
- (2) APPROVE the minor changes made to the proposed local law to be provided as the FINAL DRAFT of the proposed local law.
- (3) AUTHORISE the Chief Executive Officer to make application to the Department of Local Government to make application to the Governor on the City's behalf.

BACKGROUND

2. Governor's consent has to be sought prior to Council adopting the proposed local law.
3. On 25 September 2018, Council resolved to remake the *City of Albany Jetties, Bridges & Boat Pens Local Law 2005* (As amended).
4. On 28 May 2019, Council resolved to MAKE the proposed new local law, noting the requirement that prior to presentation for final adoption, in accordance with section 3.6 of the Local Government Act 1995 (the Act), the Governor's consent must be sought.

DISCUSSION

5. The previous local law, which will be replaced by this proposed local law was approved by the Governor and Gazetted on 10 February 2004.
6. The Governor's approval extended the area of application to areas located outside of the City of Albany's district, such as the:
 - a. Albany Town Jetty Precinct; and
 - b. Emu Point Boat Pens.
7. The proposed local law updates areas and location descriptions.
8. On 13 November 2019, received advice from the Dept. of Local Government, being:

"Once the City has finalized the draft of the local law and prior to submitting the final draft to council for adoption, the City should send a letter to the Minister formally requesting the Governor's approval.

This application should include:

- *A copy of the final draft of the local law;*
- *Diagrams of the lots specified in clause 1.3; and*
- *A council resolution authorizing the City to make the application (either directly or via an appropriate delegation).*

When this request is submitted, the Department will prepare a suitable application to the Governor on the City's behalf. Once the Governor's approval is obtained, the City will be notified and the final draft can be submitted to the council for adoption under section 3.12(4) of the Act."

GOVERNMENT & PUBLIC CONSULTATION

9. **Stakeholder engagement:** The local law making process provided members of the public and government departments to have their say on the proposed local law and their relevance within the community.

10. A copy of the Local Law was forwarded to the Department of Local Government and the Department of Transport on 20 June 2019.
11. Ongoing consultation has been conducted with the Department of Transport and the Department of Local Government with the latest advice being received on the 13 November 2019.
12. Comments and submission detailed below:

Proposed Local Law	Comments:
<p>Clause 1.3 Application</p>	<p>Department of Transport:</p> <p>Clause 1.3 Application</p> <p>For clarity purposes for persons reading or applying the Local Law, it would still seem desirable for the Local Law to clearly indicate that it only applies to jetties, bridges boat pens and swimming enclosures that are under the care, control and management of the Local Government Authority. (This advice is consistent with that previously provided on 26 August 2004 at the time that the current local law was being processed).</p> <p>The easiest way of achieving the abovementioned clarification of application of the Local Law would seem to be to include a specific opening provision under Clause 1.3 Application, with the wording “This local law applies to the jetties, bridges, boat pens and swimming enclosures under the control of the City of Albany”, prior to addressing the extension of application beyond the City of Albany’s district.</p> <p>Such a provision would also confirm what is understood to be your intended application of the local law to cover all jetties etc. under the control of the City.</p> <p>I am not aware of any overarching provisions of the Local Government Act, but the current wording of the draft would seem to limit the application of the local law to the specific areas identified within the 1.3 Application clause (which do not include any bridges or swimming enclosures).</p> <p>With respect to the application of the local laws beyond the City’s district, the reference to the Albany Waterfront Marina Precinct should be deleted as there are no jetties, bridges, boat pens or swimming enclosures under the care control or management of the City on either of the Lots 1583 or 1584.</p> <p>With respect to the Emu Point reference, the City’s facilities only occupy a portion of Lot 350 with DoT facilities and areas under control comprising the balance.</p> <p>It is therefore suggested that the wording be amended by adding the passage “on land leased to the City of Albany by the Minister for Transport pursuant to the Marine and Harbours Act 1981 on portion of” between the words “located” and “Lot 350” in substitution of the word “at” in line 1 of item (a).</p> <p>Comment: Agreed, local law amended accordingly.</p> <p>You may also want to broaden this provision to refer to both jetties and boat pens noting that the City also controls a boat launching ramp with finger jetty, a universal access jetty and boat lifter jetties at this location.</p> <p>If the City needs this provision extending the application of its local laws at Emu Point, it may also need to consider the situation elsewhere as several jetties, ramps and the Ellen Cove swimming enclosure that are under the care</p>

Proposed Local Law	Comments:
	<p>control or management of the City extend beyond low water mark and are located within or partly within the declared Port of Albany under the control of the Southern Ports Authority.</p> <p>Comment: Agreed, local law amended accordingly.</p> <p>Although the 2015 Ward Boundary Change maps (DP 405587) generally depict the Low Water Mark as the seaward boundary of the LGA area, mapping on Landgate's viewer indicates that the City of Albany LGA area extends seaward so as to encompass the whole of the area to the Coastal Waters boundary.</p> <p>Comment: Agree, Request the Department of Local Government to confirm the boundaries, as part of the preparation for consent by the Governor.</p>
<p>Clause 1.5 Definitions</p>	<p>Department of Transport:</p> <p>With respect to the definition “commercial vessel” it would seem that the only reference to commercial vessel within the draft local law is within the definition of “vessel”. It is suggested that the “commercial vessel” definition and the corresponding use of the term within the definition of “vessel” be deleted as it appears to serve no real purpose.</p> <p>Comment: Agree, amended accordingly.</p>
<p>Clause 2.1 Use of jetty bridge or land</p>	<p>Department of Transport:</p> <p>2.1 (2)(b) should in our view be deleted as the closure referred to under section 6 of the Jetties Act 1926 only relates to a public jetty, whereas jetties owned by a LGA fall under the category of a private jetty. (The inclusion of this reference in your current local law was to recognise that the previous Town Jetty, which was a public jetty, had been leased /licenced under the LGA's control).</p> <p>Comment: Amended, clarified this applies only to structures owned by the local government, amended accordingly.</p> <p>Noting the definition of jetty is clarified by stating the structure must be under the care, control and management of the local government.</p>
<p>Clause 2.10 Vehicles on Jetty</p>	<p>Department of Transport:</p> <p>With respect to 2.10 (1) and (2), you may want to include a qualification with respect to the use of boat launching ramps as they fall within the definition of a jetty.</p> <p>Comment: Agree, definition added and sub-clause 2.10(2)(c) added.</p>
<p>Clause 2.11 No fishing from jetties or swimming enclosures designated for Swimming</p>	<p>Fishers with Disabilities - Volunteer</p> <p>The Ellen Cove Jetty is used by fishers and provides wheel chair access and easy access for the mobility impaired.</p> <p>Comment: Recommend support amendment, clause 2.11 (1) No fishing from jetties or swimming enclosures designated for Swimming, amended to include subclause: Subclause (1) does not apply to the Ellen Cove Jetty.</p>
<p>Clause 3.1 – Licences issued under previous local law</p>	<p>Department of Local Government:</p> <p>The City may wish to add a transitional clause in relation to licences or permissions granted by the City under the previous local law.</p>

Proposed Local Law	Comments:
	<p>In particular, it appears that the City's current local law allows licences to live in boats, while the draft local law will prohibit this.</p> <p>If anyone is currently living in a boat under a licence issued by the City, the City may wish to consider what status those licences will have under the new law.</p> <p>Comment: No current tenants live aboard. Therefore, not applicable.</p>
<p>Clause 3.4 – Entry onto boat for purpose of inspection</p>	<p>Department of Local Government:</p> <p>Clause 3.4(2)(a) provides that an authorized person may board a vessel at any time to inspect mooring lines.</p> <p>Currently, the Local Government Act 1995 does not provide local governments with any general right to enter vehicles or private property.</p> <p>While the Act grants some powers of entry, these powers are limited to specific circumstances.</p> <p>It appears that a similar clause was present in the City's original version of the City's 2006 jetties local law. However, the Parliament's Delegated Legislation Committee objected to the clause and the City deleted it in a subsequent amendment.</p> <p>It is suggested that clause 3.4(2)(a) be deleted, otherwise the Committee is likely to object to it in a similar manner.</p> <p>Comment: Agree, local law amended.</p>
<p>Clause 3.6 General Prohibitions</p>	<p>Department of Transport:</p> <p>In 3.6 (2) the reference to hull cleaning in the pen system and reference to such hull cleaning only being undertaken within the licensee's pen is not generally supported. particularly, with respect to any pens or any jetties that are within a Departmental Area as defined within the Marine and Harbours Act (includes the Emu Point facility).</p> <p>DoT does not allow/support the cleaning of vessel hulls (or any major repairs to the external surface of a vessel or its equipment where there is risk of material ending up in the water) within any of its boat harbours or mooring pens, whether by chemical means, high pressure cleaning, or other mechanical means. This is due to the inherent risk of pollution/contamination and spread of marine pests in addition to a potential nuisance being caused to adjacent penholders.</p> <p>Instead, DoT requires such hull cleaning and maintenance activities to be carried out at a shore based vessel maintenance facility where all waste can be isolated, collected and disposed of at approved land fill sites.</p> <p>It is noted that a boat lift facility and vessel maintenance area exist at the Emu Point Boat Harbour facility that could facilitate such out of water hull cleaning.</p> <p>(The City's lease of the area occupied by its pens and other jetties at Emu Point pursuant to the Marine and Harbours Act also contains obligations not to pollute or contaminate the leased area or allow such pollution or contamination by others.</p> <p>Comment: Concur, local law amended accordingly.</p>

Proposed Local Law	Comments:
<p>Clause 3.9 - Impoundment of vessel</p>	<p>Department of Local Government: Clause 3.9(h) of the local law provides that if a licensee breaches any provision of the local law, their vessel may be impounded in accordance with the Act. Currently the Act only allows for the impoundment of vehicles in circumstances when the vehicle is obstructing a public place, causing a hazard to public safety or the presence of the vehicle is unlawful. While paragraph (h) will apply for all breaches of the local law, this does not necessarily mean that all breaches of the local law will allow impoundment under the Act. The City should keep this in mind and ensure it has appropriate procedures in place so it doesn't impound a vessel in the wrong circumstances. Comment: Noted. Any action is protected by clause 4.9 Objection and appeal rights.</p>
<p>Right of review for license decisions.</p>	<p>Department of Local Government: Currently, the local law doesn't provide for any right of review for decisions made under the local law. The City may wish to add a clause setting out a right of review for decisions relating to consent and licenses. While the City isn't obligated to do this, the absence of a right of review may be raised as an issue by the Parliament's Delegated Legislation Committee. It is noted that the City's current local law lacked such a clause and this wasn't raised as an issue when it was considered in 2006. However, this can't be taken as a guarantee of how the current Committee will consider the matter, since it isn't bound by decisions made by the Committees of previous Parliaments. Comment: Agree, right of review clause added, clause 4.9 and the definition for regulations. 4.9 Objection and appeal rights When the local government makes a decision as to whether it will— (a) grant a person a licence under this local law; or (b) renew, vary, or cancel a licence that a person has under this local law, the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations shall apply to that decision. Regulations mean the Local Government (Functions and General) Regulations 1996;</p>
<p>Minor editorial edits and recommendations.</p>	<p>Department of Local Government: Comment: Amended accordingly.</p>

STATUTORY IMPLICATIONS

13. Delegation to City Officers must be resolved by **Absolute Majority**.

POLICY IMPLICATIONS

14. It is important that the local law not be submitted to council for final adoption under section 3.12(4) until the Governor’s approval is confirmed. Otherwise, it may compromise the local law’s ability to operate.

RISK IDENTIFICATION & MITIGATION

15. Not applicable to this report.

FINANCIAL IMPLICATIONS

16. Not applicable to this report.

LEGAL IMPLICATIONS

Legislative Environment

17. It should be noted that Local Laws (which were once known as ‘By Laws’) are subsidiary legislation, made by Local Governments.
18. Local Laws must not contravene any State or Federal Act or Regulation, and in the event of any inconsistency, the Act or Regulation will override the Local Law to the extent of the inconsistency.

ENVIRONMENTAL CONSIDERATIONS

19. Not applicable to this report.

ALTERNATE OPTIONS

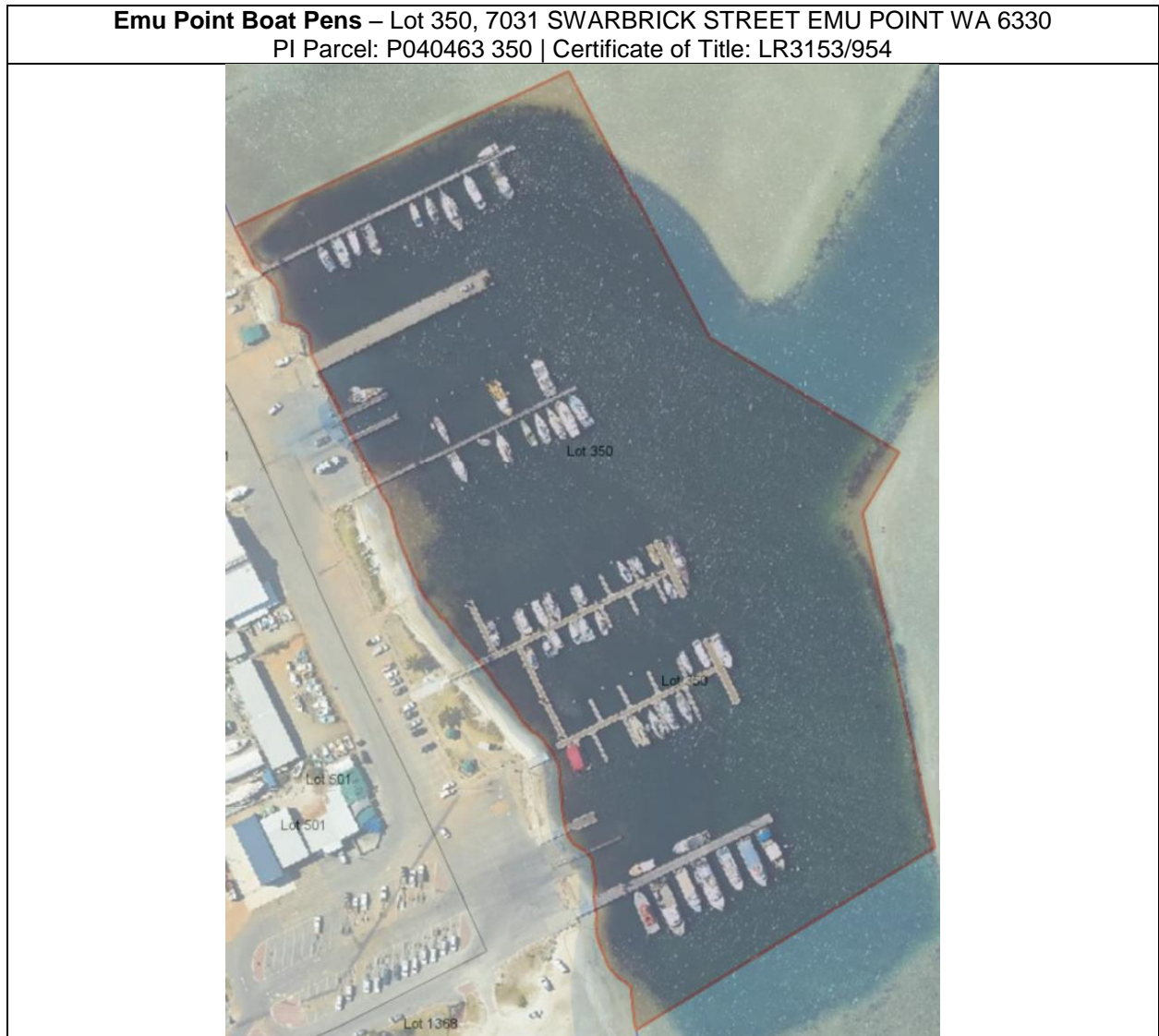
20. Not applicable to this report.

CONCLUSION

21. It is recommended that the Responsible Officer Recommendation be adopted.

Consulted References	:	<ul style="list-style-type: none">• <i>Local Government Act 1995</i>• Local Government Operational Guidelines Number 16 – November 2011 - Local Laws
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	<ul style="list-style-type: none">• OCM 25/09/2018 Resolution CCS087• OCM 28/05/2019 Resolution AR062

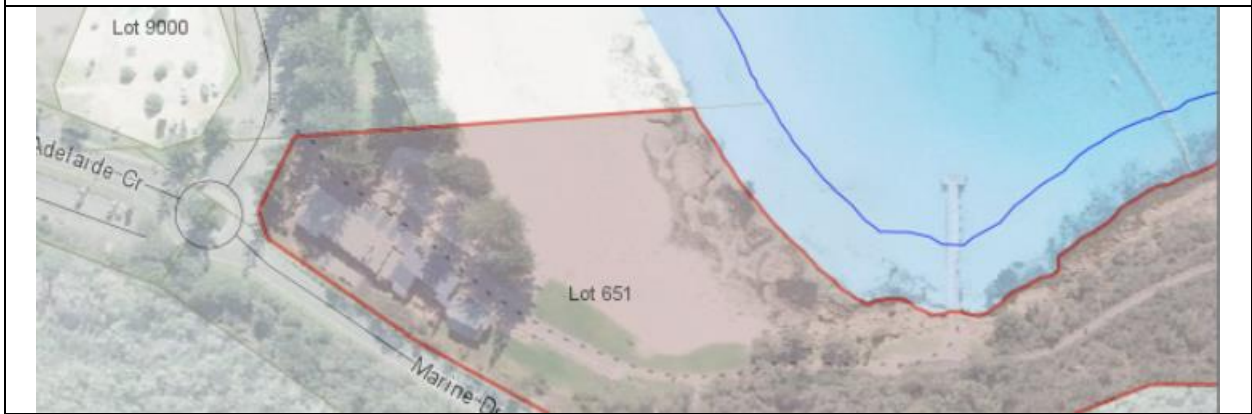
Maps: (Note all maps are oriented grid north)



**Ellen Cove Swimming Enclosure & Swimming Platform - Lot 1474, Flinders Parade
Middleton Beach WA 6330, PI Parcel: P219850 1474 | Certificate of Title: LR3111/83**



**Ellen Cove Swimming Enclosure & Jetty - Lot 651, 2 Flinders Parade Middleton Beach WA
6330, PI Parcel: P191343 651 | Certificate of Title: LR3119/892**



CCS201: FINANCIAL ACTIVITY STATEMENT – OCTOBER 2019

Proponent	: City of Albany
Attachments	: Statement of Financial Activity
Report Prepared by	: Acting Manager Finance (S Van Nierop)
Responsible Officer	: Acting Executive Director Corporate Services (D Olde)

RECOMMENDATION

**CCS201: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY**

THAT the Financial Activity Statement for the period ending 31 October 2019 be RECEIVED.

CCS201: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR STEPHENS
SECONDED: COUNCILLOR GOODE

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS201: RESPONSIBLE OFFICER RECOMMENDATION

THAT the Financial Activity Statement for the period ending 31 October 2019 be RECEIVED.

BACKGROUND

1. The Statement of Financial Activity for the period ending 31 October 2019 has been prepared and is attached.
2. In addition to the statutory requirement to provide Council with a Statement of Financial Activity, the City provides Council with a monthly investment summary to ensure the performance of the investment portfolio is in accordance with anticipated returns and complies with the Investment of Surplus Funds Policy.

DISCUSSION

3. In accordance with section 34(1) of the *Local Government (Financial Management) Regulations 1996*, the City of Albany is required to prepare each month a Statement of Financial Activity reporting on the revenue and expenditure of the local authority.
4. The requirement for local governments to produce a Statement of Financial Activity was gazetted in March 2005 to provide elected members with a greater insight in relation to the ongoing financial performance of the local government.
5. Additionally, each year a local government is to adopt a percentage or value to be used in Statements of Financial Activity for reporting material variances. Variations in excess of \$100,000 are reported to Council.
6. These financial statements are still subject to further yearend adjustments and have not been audited by the appointed auditor.

“Please note that rounding errors may occur when whole numbers are used, as they are in the reports that follow. The ‘errors’ may be \$1 or \$2 when adding sets of numbers. This does not mean that the underlying figures are incorrect.”

STATUTORY IMPLICATIONS

7. Section 34 of the *Local Government (Financial Management) Regulations 1996* provides:
- I. A local government is to prepare each month a statement of financial activity reporting on the source and application of funds, as set out in the annual budget under regulation 22 (1)(d), for that month in the following detail:
 - a. annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
 - b. budget estimates to the end of the month to which the statement relates;
 - c. actual amounts of expenditure, revenue and income to the end of the month to which the statement relate
 - d. material variances between the comparable amounts referred to in paragraphs (b) and (c); and
 - e. the net current assets at the end of the month to which the statement relates.
 - II. Each statement of financial activity is to be accompanied by documents containing –
 - a. an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
 - b. an explanation of each of the material variances referred to in sub regulation (1)(d); and
 - c. such other supporting information as is considered relevant by the local government.
 - III. The information in a statement of financial activity may be shown –
 - a. according to nature and type classification;
 - b. by program; or
 - c. by business unit.
 - IV. A statement of financial activity, and the accompanying documents referred to in sub regulation (2), are to be –
 - a. presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
 - b. recorded in the minutes of the meeting at which it is presented.

POLICY IMPLICATIONS

8. The City’s 2019/20 Annual Budget provides a set of parameters that guides the City’s financial practices.
9. The Investment of Surplus Funds Policy stipulates that the status and performance of the investment portfolio is to be reported monthly to Council.

FINANCIAL IMPLICATIONS

10. Expenditure for the period ending 31 October 2019 has been incurred in accordance with the 2019/20 proposed budget parameters.
11. Details of any budget variation in excess of \$100,000 (year to date) follow. There are no other known events which may result in a material non recoverable financial loss or financial loss arising from an uninsured event.

File Number (Name of Ward)	FM.FIR.7 - All Wards
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CCS202: ANIMALS LOCAL LAW 2020

Land Description	: (All Wards)
Attached	: Finalised Proposed Draft - Animals Local Law 2019
Report Prepared By	: Manager Governance & Risk (S Jamieson)
Responsible Officers:	: Acting Executive Director Commercial & Corporate Services (D Olde)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan and Corporate Business Plan:
 - **Theme:** Leadership.
 - **Objective:** To establish and maintain sound business and governance structures
 - **Community Priority:** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflect the level of associated risk and are adequately explained to community.

Maps:

- Follow this report.

In Brief:

- To seek Council's approval to MAKE the local law.

RECOMMENDATION

**CCS202: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

In accordance with section 3.12 of the Local Government Act 1995 (the Act), COUNCIL resolves to MAKE the City of Albany Animals Local Law 2020 and APPROVES the giving of State-wide public notice in order to seek public comment.

CCS202: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR THOMSON
SECONDED: COUNCILLOR STEPHENS

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS202: RESPONSIBLE OFFICER RECOMMENDATION

In accordance with section 3.12 of the Local Government Act 1995 (the Act), COUNCIL resolves to MAKE the City of Albany Animals Local Law 2020 and APPROVES the giving of State-wide public notice in order to seek public comment.

BACKGROUND

2. This Local Law was amended in 2017 with the adoption of the City of Albany Dog Local Law 2017.
3. On 25 September 2018, Council resolved to remake the *City of Albany Animals Local Law 2001* (As amended) and give consideration to the Officer Recommendation, being:

Animal Local Law:

That the local law be fully reviewed, the current local law repealed and a new local law made.

That:

- (1) The provision to allow the keeping of bees be considered in the proposed new law.
- (2) Horse exercise areas and associated management conditions be reviewed.
- (3) Allow for the keeping of poultry with conditions be considered.
- (4) Animal control, for all animals in public places is extended to address:
 - Fouling of public places; and
 - Ensuring appropriate control.
- (5) That the review of the Animals Local Law is led by Health Team, noting the head of power for this local law is the new Health (Miscellaneous Provisions) Act 1911.

Repealed Cat Local Law:

That the local law remain repealed, noting that additional control measures could be facilitated through an updated Animals Local Law.

Dog Local Law:

There is no need to either amend or repeal this Local Law.

DISCUSSION

4. The purpose of this Local Law is to provide for the regulation, control and management of the keeping of domestic animals and birds, large animals, miniature horses and pigs.
5. The previous local law, will be replaced by this proposed new local law.
6. Feedback received on the current Local Law is detailed in the Community Consultation section of the report.

GOVERNMENT & PUBLIC CONSULTATION

7. **Stakeholder engagement:** The local law making process provided members of the public and government departments to have their say on the proposed local law and their relevance within the community.
8. A copy of the proposed Local Law was forwarded to the Department of Local Government for comment.
9. Additional consultation will be conducted during the public consultation period that will be extended from the prescribed period of 6 week, noting the festive season, to close by the end of February 2020.
10. **Stakeholder engagement (2018):** The review process enabled members of the public to have their say on the current local laws and their relevance within the community.
11. This opportunity also provided the opportunity to identify new matters that could be dealt with through the development of, or amendment to a local law.

12. Public Notices of the review was posted on the City's:
 - a. Website and social media feeds; and
 - b. Public Library Notice Boards.
13. In accordance with the Act, local government notices were advertised in The West, April 7 to 8, 2018, Page 100; and the Great Southern Weekender.
14. Consultation: All local laws were advertised for comment, with two submissions received during the consultation period.
15. To complement the review historic inquiries and comments specific to the City of Albany's existing local laws have been included.
16. An additional review of similar local laws across the sector was also conducted.
17. Comments and submission received are detailed below:

<p>Keeping of Bees:</p> <p>A petition was received in December 2017 to request Council to consider amending the Animals Local Law to allow the keeping of bees. This petition is detailed at attachment 1.</p> <p>Extract:</p> <p>We the undersigned, are calling on Albany Council to remove the local law which prohibits people in residential areas from beekeeping on their properties.</p> <p>The fundamental role honeybees play in the environment is becoming widely known, and the hobby beekeeper can be vital in supporting this. Well managed beehives are not aggressive and if positioned properly, are unnoticeable by neighbours and passers-by.</p> <p>The benefits of increased numbers of neighbourhood hives cannot be understated - increased fruit and vegetable production, improved health of native bushland and an opportunity for residents to engage in a productive and rewarding pastime.</p> <p>Backyard beekeeping has become extremely popular in recent times throughout Australia, and the Southwest of WA remains one of the healthiest environments for bees left anywhere in the world.</p>	<p>Officer Comment:</p> <p>The provision to allow the keeping of bees be considered in the proposed new law.</p> <p>People wishing to become hobbyist apiarists are reminded that by law they must firstly register with the Department of Agriculture and Food WA (DAFWA), which then provides a hive identifier with the Certificate of Registration.</p> <p>The registration of bee hives helps DAFWA in the control of pests and diseases, and also to notify hive owners of emerging threats.</p> <p>There are almost 1,000 registered beekeepers in WA with a combined total of nearly 29,000 hives.</p> <p>The DAFWA website has extensive information sheets, aimed at small landholders, for the keeping of bees.</p> <p>A constant and clean water supply, kept close to the hives, is an important in stopping bees becoming a nuisance to neighbours.</p> <p>Proposed in the local law:</p> <p>6.2 Restrictions on keeping Bees in Hives</p> <p>A person must not keep or permit the keeping of bees in a hive on a lot unless, at all times—</p> <ol style="list-style-type: none"> (a) an adequate and permanent supply of water must be provided within 10m of the beehive; (b) the beehive is kept— <ol style="list-style-type: none"> (i) outside, and at least 10m from, any building other than a fence; (ii) at least 10m from any public place; and (iii) at least 5m from the boundary of the lot; and (c) the beehive is enclosed on all sides by a fence, wall or other enclosure. <p>Similar to the Town of Cottesloe and City of Wanneroo.</p>
<p>Horse Exercise Areas:</p> <p>It is recommended that Council review and specify where horses are allowed to exercise.</p> <p>Feedback 1: Against exercising horses at Seawolf Road, Princess Royal Harbour:</p>	<p>Officer Comment:</p> <p>Based on a review conducted by the Reserves Manager, it is recommended that the current situation remains unchanged and horse exercise areas are determined by Council as a Council Policy Position (Determination) under the proposed local law.</p>

<p>Horses could become a Nuisance under this law for interfering with enjoyment of adjacent land owners.</p> <p>Feedback 2: In support of exercising horses at Seawolf Road, Princess Royal Harbour:</p> <p>This area has historically been used by horse riders for a long time (over ten years that I'm aware of) and horse riding has been noted in the Council adopted Black Swan Point Management Plan as being a commonly occurring activity at the Princes Royal Harbour (PRH).</p> <p>The plan notes the following:</p> <ul style="list-style-type: none"> • Horse floats are not commonly taken into the Reserve, with riders coming in from nearby bridle trails and private properties via Frenchman Bay Road – indicating that it is mainly used by residents and local people. • The potential for conflict is lessened as different groups use different part of the reserve and require different conditions for their activities. In general users coexist well together. <p>The plan recommends:</p> <ul style="list-style-type: none"> • The City of Albany should define the horse access ways to the beach area. • That education should be provided to highlight the environmental protection of the area to avoid disturbing bird habitat etc. <p>Little Grove Robinson Precinct is identified as special rural/residential (<i>current terminology: special residential or rural residential</i>) lots, the precinct has the bridle trails, equestrian centre, and families invest and move to the precinct specifically to engage in horse riding.</p> <p>With the harbour close by it makes it a unique lifestyle opportunity. Kids and riders can easily access the harbour as a horse exercise area without the need to float horses (i.e. not bothering Mum and Dad) improving and increasing the opportunities for physical activity and healthy lifestyles.</p> <p>I appreciate that there may be an issue with one or two residents but in general horse riding has been undertaken in the harbour without conflict between users.</p> <p>My preference is that in line with recommendations from the Black Swan Point Masterplan that we review the area and develop a solution that does not disadvantage one group of residents over another.</p>	<p>The current designated horse exercise areas (Middleton Beach & the Stidwell Bridle Trail) are detailed at Schedule 3 of the proposed local law.</p> <p>Middleton Beach Horses are allowed on Middleton Beach from Griffith Street south from dawn to 9am Horses have priority of way during these hours but should be aware the area is also utilised extensively by walkers and people exercising their dogs.</p> <p>Horse are also allowed to exercise in the water at this location between 9.00-11.00am and 1.00-3.00pm.</p> <p>Stidwell Bridle Trail The Stidwell Bridle Trail is Albany's premier horse riding trail. Located in the suburbs of Robinson, Sandpatch and Torndirrup. The trail incorporates a number of loops utilising purpose built "horse only" trails and a range of management and 4 wheel drive tracks.</p> <p>The Bridle trail is best accessed from the Albany Equestrian Centre on Roberts Road.</p> <p>The current exercise areas allocated for horses are detailed at Schedule 3 of the proposed local law.</p> <p>RE: Seawolf Road, Princess Royal Harbour</p> <p>It is recommended that further public consultation is required; therefore it is not recommended to be included in the current proposed local law.</p>
<p>Horse & Dog Exercise Area Middleton Beach:</p> <p>Interaction between dogs and horses can be dangerous and near tragedies have been observed.</p> <p>Horses make more mess and disturb the environment more than dogs.</p> <p>Dog owners are expected to clean up after their dogs and the same is not expected of horse owners.</p>	<p>Officer Comment:</p> <p>This was investigated as part of a review across directorates, noting this also relates to recreational activities.</p> <p>Signage at Middleton Beach entrances used by dog owners and horse owners/trainers updated accordingly.</p> <p>Dog control is administered under the Dog Local Law and dog exercise areas and prohibited areas are determined by Council through a Council Policy position.</p> <p>The Dog Local Law specifies at clause 26 (6) A person may exercise a dog on an area of reserve or foreshore set aside as a horse exercise area <u>provided the dog remains under full control on a leash at all times.</u></p>

	Clause 2.1 Dog Control points person to the appropriate legislation and dog local law.
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<p>Consider more beach exercise areas:</p> <p>Beach should be accessible to all and horses offer a unique aspect to the Albany community's lifestyle.</p> <p>Time allocations for horses and dogs on the Middleton Beach horse exercise area of the beach have been satisfactory under the current "time allocation" system.</p> <p>As a dog owner I have never had a problem with the horses.</p> <p>As a regular user of the animal exercise area, as dog owner and enjoy seeing horses at the beach.</p> <p>Consideration should be given to increasing horse exercise areas as they provide a positive benefit for occupational therapy and pleasure for children and adults with disabilities.</p>	<p>Officer Comment:</p> <p>Refer to previous comment.</p>
<p>Keeping of chickens:</p> <p>Can the City consider relaxing the conditions so that chickens be kept in town?</p> <p>Keeping chickens in your backyard can be a very enjoyable and rewarding experience. Chickens help by eating vegetable scraps and in return provide eggs and chicken manure.</p> <p>Chickens can be put to work in a 'chicken tractor' (a temporary enclosure for gardening purposes) to prepare garden beds for planting.</p> <p>If allowed to free range, they love to eat weeds and they also help to control insect pests. In addition, their natural behaviours such as scratching and dust bathing are just fun to watch.</p>	<p>Officer Comment:</p> <p>Keeping of chicken is allowed under the City's Animal Local Law.</p> <p>It was noted that the current conditions detailed at clause 46 (Keeping Poultry in Residential Areas) of the local law; may limit the keeping of chickens on a standard residential block.</p> <p>Conditions for keeping poultry (Basic objective)</p> <p>Keep conditions clean to prevent odour and fly breeding. Ensure persons keep or dispose of animals and animal waste in a manner that prevents a breeding place for pests. Persons consider the risk to the health or safety of surrounding persons and animals</p> <p>The following details the proposed conditions in the new local law:</p> <p>Proposed conditions:</p> <p>PART 8 - POULTRY, PIGEONS AND MISCELLANEOUS BIRDS</p> <p>8.1 Limitation on Numbers of Poultry and Pigeons</p> <p>(1) In this clause, Affiliated Person means a person who is a member of a properly constituted Poultry or Pigeon Club.</p> <p>(2) An owner or occupier of land—</p> <p>(a) who is not an Affiliated Person, must not keep a total of more than 6 poultry and 6 pigeons; and</p> <p>(b) who is an Affiliated Person, must not keep a total of more than 50 pigeons and 12 poultry, on any one lot of land.</p> <p>(3) An owner or occupier of land must not keep or suffer to remain in a residential area a rooster, turkey, goose, peacock or peahen.</p> <p>8.2 Conditions of Keeping Poultry</p> <p>(1) A person who keeps poultry or permits poultry to be kept must ensure that—</p> <p>(a) no poultry is able to approach within 10m of a dwelling, public building or food premises;</p> <p>(b) no poultry is able to approach within 10m of a public place other than a right of way unless, in the case of land at the junction of two or more streets, the local government has approved a lesser distance;</p>

	<p>(c) all poultry are kept in a properly constructed and securely fastened structure or enclosure; (d) no poultry is able to approach within 1m of any boundary; (e) the structure or enclosure does not exceed 2m in height; (f) there is a floor beneath the roofed area of the structure or enclosure which is constructed of smooth, impervious material and with a gradient of at least 1 in 50 to the front of the structure or enclosure; (g) the structure and enclosure is kept in a clean condition and good repair at all times; (h) all feed for the poultry is stored in vermin proof containers; and (i) the structure or enclosure must be in the yard having an otherwise unobstructed area of at least 30m2 . (2) The local government does not allow roosters on any premises in a residential area.</p>
<p>Miniature pigs: Does the City of Albany's local law allow for the keeping of miniature pigs?</p>	<p>Officer Comment: The current and proposed local law provide conditions on the keeping of miniature pigs. Proposed local law: Clause 4.5 Keeping of Pigs</p>
<p>Walking of animals in public: Can animals other than dogs (for example, cats, miniature horse etc.) be walked in public?</p>	<p>Officer Comment: This current and proposed local law does not prohibit the walking of <u>any animal</u> in public. The local law is silent, in regards to the walking of animals on public land. However, it should be noted that regardless of animal type, if a person in charge of an animal that harms a person, that act would be subject to criminal prosecution.</p>
<p>Number of Cats: Suggest decrease the number of cats to a maximum of two.</p>	<p>Officer Comment: Legislation regarding the keeping of cats was introduced in 2011. Control of cats is administered under the Cat Act 2011 and the current and proposed Local law; being: Clause XXX.</p> <ul style="list-style-type: none"> • A person shall not keep more than 3 cats over the age of 3 months. • A person in a rural area, commercial area or industrial area may keep more than 3 cats with permission.
<p>Cat Trapping: I have been informed that there is no cat laws in the City of Albany. Now I am aware you have more important things to worry about then some cats roaming around the streets getting hit by cars or getting barked at for hours by dogs, killing native wildlife for fun because no doubt their owners feed them. Now I have 2 dogs and I have neighbours with cats and the fact these cats don't have collars and don't stay inside at</p>	<p>Officer Comment: It was noted at the time and the person providing comment was advised all local laws are being reviewed and a discussion paper was prepared for consideration by Council and the feedback would be considered as a submission this review. The control of cats is administered under the Cat Act 2011 and the current and proposed Animal Local law. PART 9 – CATS 9.1 Interpretation</p>

<p>night and the other fact that no one can do anything about the multiple complaints (now I am referring to the complaints rangers get.... whose job it is to collect stray dogs because of the hazard they are to people and wildlife) because the cat law which was put in place because of dogs barking in the middle of the night because of cats being able to wandering is not put in place by the City of Albany.</p> <p>Do you see what I'm saying you wanna make equality for women and men but aren't willing to do the same thing for cats and dogs which a hugely apart of our human lives.</p> <p>I will continue sending these messages to you until something is done because it's not fair dogs should be silenced by collars that shock them and make them feel like what they are meant to do is bad. Which is notify their pack of something on their territory. Such as an unwanted thief.</p> <p>I look forward to continuing to send you these emails until something is done like... cat traps you could find cats and hold them like you do stray dogs.</p>	<p>(1) In this Part, unless the context otherwise requires— Act means the Cat Act 2011; cat means an animal of the species felis catus or a hybrid of that species;</p> <p>9.2 Keeping of Cats for which a licence is required</p> <p>9.3 Cleanliness</p> <p>9.4 Application for licence</p> <p>9.5 Refusal to determine application</p> <p>9.6 Factors relevant to determination of application</p> <p>9.7 Decision on application</p> <p>9.8 Conditions</p> <p>9.9 Duration of licence</p> <p>9.10 Revocation</p> <p>9.11 Licence not transferable</p> <p>9.12 Licence to be kept at the premises and available for view</p> <p>Schedule 1 - Prescribed Offences</p> <p>Schedule 3 - ADDITIONAL CONDITIONS APPLICABLE TO PARTICULAR PERMITS</p> <p>Part 1: Permit to keep three or more cats Additional Conditions</p> <p>Part 2: Permit to use premises as a cat management facility Additional Conditions</p>
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STATUTORY IMPLICATIONS

- 18. Section 3.12 of the Local Government Act prescribes the process on how to make a local law.
- 19. The resolution of Council to MAKE the local law must be carried by **Absolute Majority**.

POLICY IMPLICATIONS

- 20. The proposed local law will have policy implications relating to the control of animals within the municipality, in particular:

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Compliance & Reputation. A local government is to carry out reviews and updated local laws to ensure they remain relevant.	Likely	Moderate	High	By making new local laws, Council are mitigating potential compliance, service interruption and reputational risks.
Opportunity: The opportunity to seek comment from both the public and stakeholders ensures the local law meets its purpose.				

FINANCIAL IMPLICATIONS

- 22. An appropriate budget line exists for the cost of giving public notice, advertising and gazettal of local laws.
- 23. This cost is estimated to be approximately \$500 in addition to staff time.

LEGAL IMPLICATIONS

Legislative Environment

24. In Western Australia Local Governments are created by, and are subject, to State law. Statutes are laws passed by the Parliament of Western Australia, a number of which are implemented by Local Governments.
25. In addition, many Acts of State Parliament also contain provision for subsidiary legislation (Regulations or Local Laws) to be made.
26. Regulations are intended to deal with the administrative detail or implementing a particular provision of an Act, or in an area that is not contentious such as setting of fees and charges.
27. Local Laws (which were once known as 'By Laws') are subsidiary legislation, made by Local Governments.
28. Local Laws must not contravene any State or Federal Act or Regulation, and in the event of any inconsistency, the Act or Regulation will override the Local Law to the extent of the inconsistency.

ENVIRONMENTAL CONSIDERATIONS

29. Environmental considerations are an essential criteria, in particular those laws relating to the protection of our natural environment.
30. Environmental issues were considered as part of the internal review.

ALTERNATE OPTIONS

31. Council may:
 - a. Proceed; or
 - b. Reconsider its position on the local law, in full or in part.

CONCLUSION

32. It is recommended that the Responsible Officer Recommendation be adopted.

Consulted References	:	<ul style="list-style-type: none">• <i>Local Government Act 1995</i>• Local Government Operational Guidelines Number 16 – November 2011 - Local Laws
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	<ul style="list-style-type: none">• OCM 25/09/2018 Resolution CCS087.

CCS203: ATTENDANCE AT EVENTS AND FUNCTIONS POLICY

Land Description	: (All Wards)
Attached	: Proposed Policy Position
Report Prepared By	: Manager Governance & Risk (S Jamieson)
Responsible Officers:	: Chief Executive Officer (A Sharpe)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan and Corporate Business Plan:
 - **Theme:** Leadership.
 - **Objective:** To establish and maintain sound business and governance structures
 - **Community Priority:** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflect the level of associated risk and are adequately explained to community.

In Brief:

- To seek Committee review of proposed policy position and determine if appropriate to proceed for Council adoption.

RECOMMENDATION

CCS203: COMMITTEE RECOMMENDATION VOTING REQUIREMENT: SIMPLE MAJORITY

THAT the Attendance at Events and Functions Policy be ADOPTED.

CCS203: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR BENSON-LIDHOLM

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS203: RESPONSIBLE OFFICER RECOMMENDATION

THAT the Attendance at Events and Functions Policy be ADOPTED.

BACKGROUND

2. As part of the Local Government Act Review it was recognised that a new gift framework should be developed to provide a transparent system of accountability where members of the community can have confidence in the decision-making of their elected representatives.
3. On 20 October 2019, the new gifts framework, contained within the *Local Government Legislation Amendment Act 2019* came into operation.
4. Local governments were advised by departmental circular 11-2019:

Local governments must prepare and adopt a policy that relates to the attendance of council members and CEOs at events such as concerts, conferences and functions.

This policy must address the provision of tickets to events, payments in respect of attendance and approval of attendance by the local government and criteria for approval. New section 5.90A relates.

In essence, the policy deals with a council member's or CEO's attendance at events as a representative of the council. Tickets or the invitation to the event must be made to the council directly, not to the council member or CEO personally.

If a council member or CEO attends an event in accordance with the local government's policy, then no conflict of interest arises.

DISCUSSION

5. The purpose of this proposed policy is to establish guidelines for appropriate disclosure and management of acceptance of invitations to events or functions, or other hospitality occasions, where elected members and employees are invited free of charge, whether as part of their official duties as council or City representatives or not.
6. The content of the proposed policy position follows, noting the complete policy position is attached for review:

Policy Statements

A. Key issues to consider

In considering whether a benefit such as an invitation to an event or hospitality given to an elected member or an employee is a gift for the purposes of the Act and Regulations, the key issues include:

- Who is a donor, the person who is offering or giving the benefit?
- What is the value of the benefit?
- Does the elected member or employee of the benefit contribute anything of value to the donor in return for the benefit such as formally opening or speaking at the event or presenting prizes/awards?
- If so, does the value of that contribution outweigh the value of the benefit? If so, it will not be a gift for the purposes of the Act and Regulations.

B. Commercial entertainment events

Any tickets accepted by an elected member or employee without payment for any commercial entertainment event, for which a member of the public is required to pay whether sponsored by the City or not will generally be classified as a gift for the purposes of the Act and Regulations.

An exception to this is where the Mayor or his / her representative attends the event in an official capacity to perform a civic or mayoral function.

Where there is a commercial entertainment event that, in the opinion of the Chief Executive Officer, it is in the interests of the City for one or more elected members or employees to attend in order to assess and understand first-hand the impacts on the community or business, then one or more tickets for that event will be purchased for the relevant elected member or employee by the City at full cost.

C. Other commercial (non-entertainment) events

For other commercial (non-entertainment) events, such as a conference or seminar, for which a member of the public is required to pay, where the Chief Executive Officer is of

the opinion that it is in the interests of the City for one or more Elected Members or employees to attend (such as for their professional development or to undertake a function as an Elected Member or employee), then one or more registrations or other benefits for that event will be purchased for the relevant Elected Member or employee by the City at full cost to enable attendance.

If the City does not pay for the event, free registration or any other benefit (such as hospitality) given to an Elected Member or employee would be classified as a 'gift' unless the contribution of the Elected Member or employee to the event (such as by way of a paper or speaking engagement) is reasonably considered to outweigh the value of registration or other benefit given to the Elected Member or employee.

D. Community/local business events

Acceptance of reasonable and modest hospitality by an Elected Member or employee at an unpaid event run by a local community group for local business would not generally be classified as a 'gift' where the contribution by the Elected Member or employee to the event is reasonably considered to outweigh the value of the hospitality.

This is more likely where the Elected Member or employee attends the event in his or her capacity as an Elected Member or employee - preferably where the attendance has been specifically authorised by the City, but otherwise where the person is performing his or her functions as an Elected Member or employee.

E. Perceived or actual conflict

Event attendance may create a perceived or actual conflict, which may preclude council members participating or employees providing advice at a future meeting.

If the amount of an event ticket (gift) is less than \$1,000, and relates to a matter before Council, under section 5.68 of the Act, Council may allow the disclosing council member to participate on the condition that the interest, the council's decision and the reasons for that decision are recorded in the minutes.

If the amount gift is above \$1,000 the council or CEO must apply to the Minister for permission to allow the member or employee to participate.

Scope

The policy provides guidance to elected members and employees when an invitation to an event or function, or other hospitality occasion, ticketed or otherwise, is offered free of charge. It does not provide guidance on the acceptance of a tangible gift or travel contribution.

Travel and accommodation excluded: This policy does not apply to tangible gifts or money, travel or accommodation. Any contribution to travel, subject to the exceptions in section 5.83 of the Local Government Act 1995 (the Act), must be disclosed in writing to the CEO within 10 days of receipt of the contribution.

Contributions to travel costs, whether financial or otherwise are now incorporated within the definition of gift.

The following situations are specifically excluded where the event ticket (gift) is received from one of the following organisations:

- WALGA (but not LGIS)
- Local Government Professionals Australia (WA)
- Australian Local Government Association
- A department of the public service
- A government department of another State, a Territory or the Commonwealth
- A local government or regional local government

The gift is still required to be recorded on the “gift register”.

GOVERNMENT & PUBLIC CONSULTATION

7. Public Consultation not applicable to this report.
8. Local government sector consultation was conducted in preparing this report, noting the proposed policy position was guided by the requirements of the Act and the policy position adopted by the City of Fremantle.

STATUTORY IMPLICATIONS

Local Government Act 1995:

9. As at 19 October 2019, section 5.90A(2), of the Act, states:
“A local government must prepare and adopt a policy that deals with matters relating to the attendance of council members and the CEO at events, including —*
(a) the provision of tickets to events; and
(b) payments in respect of attendance; and
(c) approval of attendance by the local government and criteria for approval; and
*(d) any prescribed matter.” **Absolute Majority Required.***

POLICY IMPLICATIONS

10. A new policy position is required to be adopted under the Act.
11. When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under the act.
12. The CEO must publish an up-to-date version of the policy on the local government’s official website.
13. The recent changes to gifts outlined below **has not changed the current code of conduct gift provisions relating to employees** (regulation 34B of the *Local Government (Administration) Regulations 1996*).
14. These provisions will be reviewed when section 5.51A (Code of conduct for employees) of the Local Government Legislation Amendment Act 2019 is proclaimed in 2020.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Compliance & Reputation. <i>Proposed policy is mandated under the revised local government act.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>By adopting the proposed policy position, Council are mitigating potential compliance and reputational risks.</i>

FINANCIAL IMPLICATIONS

16. An appropriate budget line exists for administering this policy position.

LEGAL IMPLICATIONS

Legislative Environment

17. Policy positions must not contravene any State or Federal Act, Regulation or local law and in the event of any inconsistency, the Act, Regulation or local law will override the policy position to the extent of the inconsistency.

ENVIRONMENTAL CONSIDERATIONS

18. Not applicable to this report.

ALTERNATE OPTIONS

19. The Committee and/or Council may:
- a. Reconsider its position on the proposed policy position, in full or in part; or
 - b. Recommend or adopt the proposed policy position.

CONCLUSION

20. It is recommended that the proposed policy position be considered and pending no significant change proceed to Council for adoption.

Consulted References	:	<ul style="list-style-type: none"> • <i>Local Government Act 1995</i> • <i>Local Government (Rules of Conduct) Regulations 2007</i> • <i>Department Circular No 11-2019 – New Gifts Framework</i>
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	<ul style="list-style-type: none"> • OCM 25/09/2018 Resolution CCS087.

CCS204: LIST OF ACCOUNTS FOR PAYMENT – NOVEMBER 2019

Business Entity Name : City of Albany
Attachments : List of Accounts for Payment
Report Prepared By : Manager Finance (S Van Nierop)
Responsible Officers: : Executive Director Corporate Services (D Olde)

RECOMMENDATION

CCS204: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: SIMPLE MAJORITY

That Council RECEIVE the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 November 2019 totalling \$6,792,390.08.

CCS204: RESPONSIBLE OFFICER RECOMMENDATION

MOVED: COUNCILLOR SLEEMAN
 SECONDED: COUNCILLOR THOMSON

THAT the Responsible Officer Recommendation be ADOPTED.

CARRIED 11-0

CCS204: RESPONSIBLE OFFICER RECOMMENDATION

That Council RECEIVE the list of accounts authorised for payment under delegated authority to the Chief Executive Officer for the period ending 15 November 2019 totalling \$6,792,390.08.

BACKGROUND

1. Council has delegated to the Chief Executive Officer the exercise of its power to make payments from the City's municipal and trust funds. In accordance with Regulation 13 of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid by the Chief Executive Officer is to be provided to Council.

DISCUSSION

2. The table below summarises the payments drawn from the municipal fund for the period ending 15 November 2019. Please refer to the Attachment to this report.

Municipal Fund	
Trust	\$1,920.00
Credit Cards	\$17,096.18
Payroll	\$1,700,641.93
Cheques	\$38,862.10
Electronic Funds Transfer	\$5,033,869.87
TOTAL	\$6,792,390.08

As at 15 November 2019, the total outstanding creditors stands at \$190,647.61 and is made up as follows:-

Current	\$51,062.98
30 Days	\$139,304.48
60 Days	\$160.34
90 Days	\$119.81
TOTAL	\$190,647.61
Cancelled Cheques	1

STATUTORY IMPLICATIONS

3. Regulation 12(1)(a) of the *Local Government (Financial Management) Regulations 1996*, provides that payment may only be made from the municipal fund or a trust fund if the Local Government has delegated this function to the Chief Executive Officer or alternatively authorises payment in advance.
4. The Chief Executive Officer has delegated authority to make payments from the municipal and trust fund.
5. Regulation 13 of the *Local Government (Financial Management) Regulations 1996* provides that if the function of authorising payments is delegated to the Chief Executive Officer, then a list of payments must be presented to Council and recorded in the minutes.

POLICY IMPLICATIONS

6. Expenditure for the period to 15 November 2019 has been incurred in accordance with the 2019/2020 budget parameters.

FINANCIAL IMPLICATIONS

7. Expenditure for the period to 15 November 2019 has been incurred in accordance with the 2019/2020 budget parameters.

CONCLUSION

8. That list of accounts have been authorised for payment under delegated authority.
9. It is requested that any questions on specific payments are submitted to the Executive Director Corporate and Commercial Services by 4pm of the day prior to the scheduled meeting time. All answers to submitted questions will be provided at the Committee meeting. This allows a detailed response to be given to the Committee in a timely manner.

File Number (Name of Ward)	:	FM.FIR.2 - All Wards
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11. **MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN** – Nil.
12. **MEETING CLOSED TO THE PUBLIC** – Nil.
13. **CLOSURE** The chair declared the meeting closed at 7.01pm