

## CCS555: STIDWELL BRIDLE TRAIL DETERMINATION

<b>Land Description</b>	: City of Albany, DPLH, Water Corporation
<b>Proponent / Owner</b>	: City of Albany
<b>Attachments</b>	: • Consolidated Stakeholder Feedback & Reference Maps
<b>Report Prepared By</b>	: Manager City Reserves (J Freeman) Manager Recreation Services (M Green) Manager Governance & Risk (S Jamieson)
<b>Authorising Officers:</b>	: Executive Director Community Services (N Watson)

### In Brief:

- Council consider initiating the determination process under the City of Albany Local Government Property Local Law 2011.

### Purpose & Effect:

- **Purpose:** Determine horse and authorised vehicle only sections of the Stidwell Bridle Trail (SBT).
- **Effect:** Sections will be restricted to Horse and Authorised Vehicle Use Only.

### Maps:

- Maps are detailed in the attachment to this report.

## STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan 2032:
  - **Pillar: Leadership.** A well governed city that uses resources wisely to meet local needs.
  - **Outcome:** A well informed and engaged community.
  - **Objective:** Grow awareness, understanding and engagement in City projects, activities and decisions.
  - **Pillar: People.** A welcoming, healthy, and inclusive community, with pride in our rich history and heritage.
  - **Outcome:** A happy, healthy, and resilient community and a safe community.
  - **Objective:** Improve access to sport, recreation and fitness facilities and programs and improve community safety.

RECOMMENDATION

CCS555: AUTHORISING OFFICER RECOMMENDATION

THAT Council:

- (1) **APPROVE** for the purpose of seeking public comment the proposed Stidwell Bridle Trail (SBT) determination under the City of Albany Local Government Property Local Law 2011.

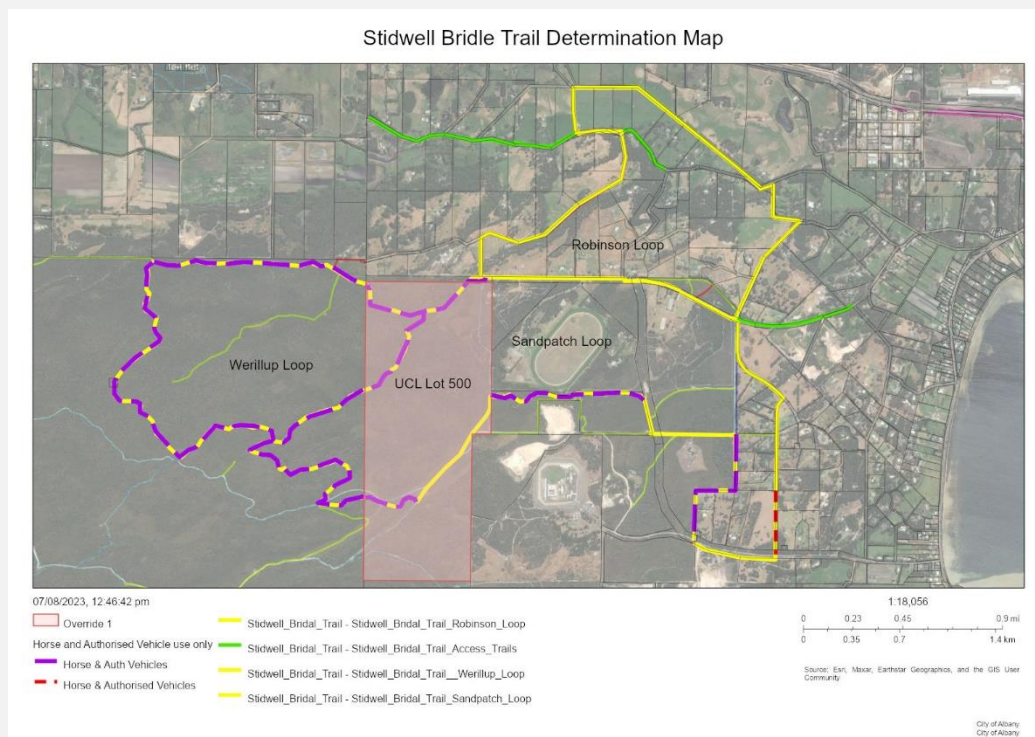
City of Albany  
Local Government Act 1995  
Local Government Property Local Law 2011

**DETERMINATION**  
**STIDWELL BRIDLE TRAIL – DESIGNATED**  
**HORSE AND AUTHORISED VEHICLE USE ONLY**


**Determination:**

The Stidwell Bridle Trail (SBT) sections depicted, by a “Purple Dashed Line on top of a Yellow Line”, are designated as “Horse and Authorised Vehicle Use Only”.

**Map:**



**Legend:**

Purple Dashed/Yellow Line –  - Horse and Authorised Vehicle Use Only.

*Note: High resolution maps can be sourced from the City of Albany website:*  
[www.albany.wa.gov.au](http://www.albany.wa.gov.au)

- (2) **NOTE** if the determination is **ADOPTED** at a future meeting of Council, the current Horse Area Determination depicting the Stidwell Bridle Trail (SBT) loops under the City of Albany Animals Local Law 2020, will be amended.

## BACKGROUND

2. In 2021, a project working group was established to conduct an independent study of the Robinson Precinct and Stidwell Bridle Trail (SBT) to address various issues and inform future management of the area and trail maintenance. The study covered historical aspects, current management, environmental concerns, and safety issues, with a particular focus on equestrian use. It sought recommendations for improved future management and enhancements.
3. Extensive consultations were conducted with the project working group, key stakeholders (such as DWER and Water Corp), and targeted members of the trail user community to gather information for the study.
4. At the OCM held in July 2022, the Council acknowledged the study's findings, and City officers proposed developing a determination based on the City's local laws. The objective was to clarify permitted uses within the SBT network to assist with addressing conflicts among users, enhance safety, and improve overall trail and reserve management, working with the Friends of the Stidwell Bridle Trail (FSBT).
5. City officers have reviewed the tracks and trails and assessed the existing authorised uses to arrive at a balanced community approach for the proposed determination.
6. On June 20, 2023, City officers briefed Elected Members on the progress made since July 2022.
7. City officers have shown a high level of commitment to the SBT project and supported the implementation and determination, meeting with representatives of the FSBT on 20 occasions since January 31st, 2023 ensuring the FSBT remains informed and involved in the process.

## DISCUSSION

8. The Stidwell Bridle Trail (SBT) is a recognised Horse Exercise Area under the City of Albany Animals Local Law 2020.
9. The proposed determination aims to address user conflicts, enhance safety, and improve management within the trail area.
10. Under the City of Albany Property Local Law 2011 the proposed determination's cause and effect is summarised as follows:
  - a. 'Horse and Authorised Vehicle Only' Sections of the SBT:
    - This will allow for improved management, signage, and safety measures within the trail area.
    - Access for authorised vehicles will be maintained to allow for relevant management authorities to access the area.
  - b. Motorised Vehicle Access:
    - Historically, licensed vehicles have used Sandpatch Reserve for accessing surfing and fishing spots and engaging in other recreational activities.
    - Unlicensed off-road vehicles will remain prohibited in the trail area.
    - Under the proposed determinations, tracks not designated as 'horse and authorised vehicles only' will continue to be available for licenced recreational vehicles, as permitted by the Property Local Law 2011.
    - It is acknowledged that to manage motorised vehicle access, appropriate signage, gates, and education efforts will need to be implemented to prevent public access and minimise conflicts with other trail users.
  - c. Fire Access and Other Maintenance Tracks:
    - The Fuel Management Strategies and Works Program for Sandpatch Reserve highlighted the need for improved fire access tracks (FATs) due to heavy vegetative fuel loads.

- The proposed determination for the SBT complements the existing fire access tracks, i.e., Bibbulmun track and Water Corporation maintenance bore access tracks; and improves access to fire management response agencies and formalises fire cell boundaries.
- d. Compliance and Enforcement:
- Rangers will conduct compliance work proactively and reactively, prioritising risks. Area patrols will occur based on available resources. Complaints with evidence of breaches will be followed up with appropriate actions.
  - The Regulatory Compliance Policy emphasises education first but allows enforcement when necessary. Improved signage, education, and access management methods, like gates, will enhance user safety and reduce conflicts.
  - For dangerous situations, local government officers won't be the first responders. Specialised training by the WA Police Force is necessary for pursuing and detaining possible offenders or impounding vehicles, particularly for unauthorised off-road trailbike use within the South Coast bore field.
  - Collaboration with DPLH, DWER, and Water Corporation is vital, especially for wind farm and water bores expansion plans in Sandpatch Reserve. DPLH authorised persons and Water Corporation Rangers also have responsibility for compliance and enforcement in public drinking water source areas.
11. Implementation and Timeline. The implementation of the proposed determination, along with improved signage, education efforts, and access management measures, is expected to be phased over a period of six months. This timeline allows for the necessary adjustments to be made and ensures smooth transitioning and adaptation to the changes within the trail area.
12. Sandpatch Reserve Management. It was identified that ongoing collaboration with DWER and Water Corporation is essential, especially regarding the wind farm and water bores expansion plans within Sandpatch Reserve. DPLH and the Water Corporation have historically advised that management of the reserve is desired, but resourcing and funding issues need to be addressed.
13. In addition to the determination, other control measures such as gates and improved signage are proposed for implementation on sections of the trail that traverse road reserves and access tracks (refer to the attachment).

#### **GOVERNMENT & PUBLIC CONSULTATION**

14. Extensive stakeholder consultation was conducted during the development of the Stidwell Bridle Trail Study report. In line with requirements, the proposed determination will be subject to a minimum 21-day public comment period to gather feedback and ensure transparency.
15. A change management plan will be developed to support implementation, emphasising effective communication, education, and enforcement.
16. The proposed determination has been developed in consultation with the FSBT group.
17. Throughout the process the FSBT have provided highly valued feedback on behalf of the local equestrian community.
18. City Officers have undertaken initial consultation with DWER, Water Corporation and DPLH as part of the determination development and these departments will be invited to make further comment during the public notice period.

#### **STATUTORY IMPLICATIONS**

19. The Local Government Act 1995 (the Act) is based on the principle of serving the whole community and promoting inclusivity, fairness, and democratic decision-making processes.
20. The Act establishes a structure that encourages public participation, open meetings, and access to information, enabling residents to have a say in matters that affect them directly.

21. Local governments are accountable to the community they serve, and their actions should reflect the diverse needs and interests of the people they represent.
22. Exclusivity is generally discouraged under the Act. It emphasises inclusivity and fairness in decision-making processes to ensure that all members of the community have an opportunity to participate and contribute. Local governments are expected to avoid favouring specific individuals, groups, or organisations over others and instead focus on the overall well-being and development of the entire community.
23. Local Government Act 1995:

**Section 3.52 Public access to be maintained and plans kept**

(2) Except to the extent that it is authorised by law to close them or restrict their use, a local government is to ensure that public thoroughfares are kept open for public use.

(3) In fixing or altering the level of, or the alignment of, a public thoroughfare, a local government is to ensure that access by vehicle to land adjoining the thoroughfare can be reasonably provided.

**Section 3.53. Control of certain unvested facilities**

(1) If land reserved under the Land Administration Act 1997 is vested in or placed under the control and management of a local government, the local government may do anything for the purpose of controlling and managing that land that it could do under section 5 of the Parks and Reserves Act 1895 if it were a Board appointed under that Act to manage and control the land and for that purpose a reference in that section to a by-law is to be read as a reference to a local law.

(2) Subsection (1) is subject to any express provision to the contrary made by an order under the Land Administration Act 1997 in respect of the land.

*Note: Local government can only enforce a determination on land vested in the care and control of the local government and Unallocated Crown Land (UCL).*

24. Control of Vehicles (Off-road Areas) Act 1978 (ORV Act):
  - a. The City of Albany has not established any Off-Road Vehicle (ORV) areas under the Control of Vehicles (Off-road Areas) Act 1978 (ORV Act).
  - b. The ORV Act regulates the illegal use of ORV inside designated Prohibited Areas but does not provide for the regulation of illegal ORV use outside of prescribed Prohibited or Permitted Areas.
  - c. The Department of Water and Environmental Regulation also advises that the ORV Act also applies to any public drinking water source area (i.e., drinking water catchments and wellheads) across the State.
  - d. It is the City's position that local government's authorised officers are not the appropriate first responders for dangerous and high-risk situations. The WA Police Force has specialised training and expertise to enable them to safely pursue vehicles and stop or detain possible offenders or impound vehicles (such as suspected hoon drivers).
  - e. Off-Road Vehicle (ORV) areas: No public land within the City of Albany is designated for unlicensed vehicle use. The use of an unlicensed vehicles, except on private land, is prohibited.

25. Local Government Property Local Law 2011:

**Clause 2.2 Procedure for making a determination**

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that—
  - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.
- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—
  - (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) amend the proposed determination, in which case subclause (5) will apply; or
  - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to—
  - (a) consider those submissions; and
  - (b) decide—
    - (i) whether or not to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
  - (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

**POLICY IMPLICATIONS**

26. Four Wheel Drive Vehicles & Motor Bikes: The City's current position is that vehicles are not allowed on City of Albany managed reserves, parks or beaches unless indicated via signage at each location.
27. Off-road vehicles such as unlicensed motor bikes, quad bikes and beach buggies can only be driven or ridden on private property with the consent of the property owner (also refer to point 24(e) of this report).

## RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<b>Reputation Risk:</b> Changes to track access may not be accepted by some residents.	Likely	Moderate	High	Provide clear signage, information, and education on any changes.
<b>People Health &amp; Safety Risk:</b> Continued vehicle access to the trail may continue to pose a risk to horse users.  Horse use may also pose a risk to other track users.	Possible	Moderate	Medium	Horse and Authorised Vehicle Only Determination.  Install gates and signage at appropriate locations and provide information and education.  Facilitate compliance with the proposed determination.
<b>Opportunity:</b> To manage the SBT for current use and consolidate compliance requirements.				

## FINANCIAL IMPLICATIONS

29. The cost of facilitating the determination process will be accommodated within existing budget lines.
30. The cost for the proposed signage and future works will be subject to current and future budget allocation.

## LEGAL IMPLICATIONS

31. Section 3.5 of the Local Government Act 1995 (the Act) provides the power for local governments to make local laws to help perform their functions.
32. Section 3.7 of the Act states that a local law is inoperative to the extent that it is inconsistent with the Act or any other written law.
33. The applicable local laws that have informed the proposed determination are:
- City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011.
  - City of Albany Animals Local Law 2020.
  - City of Albany Local Government Property Local Law 2011.
34. City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011: This local law provides specific provisions for horses being ridden on carriageways and verges in built up areas. Specifically:

### Clause 1.5 Interpretation

“**carriageway**” has the meaning given to it in the Road Traffic Code 2000 and means the paved or made portion of a thoroughfare, whether sealed or unsealed, used or intended for use by vehicles;

“**kerb**” includes the edge of a carriageway;

“**verge**” means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath.

**Clause 2.19 No driving on closed thoroughfare**

- (1) In this clause—  
“**closed thoroughfare**” means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.
- (2) A person shall not drive or take a vehicle on a closed thoroughfare unless—
  - (a) that is in accordance with any limits or exceptions specified in the order made under section of the Act; or
  - (b) the person has first obtained a permit.

**Clause 4.2 Prohibitions relating to animals**

- (2) An owner of an animal shall not—
  - (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden, or driven;
  - (b) allow an animal which has a contagious or infectious disease to be led, ridden, or driven in a public place; or
  - (c) train or race the animal on a thoroughfare.
- (3) An owner of a horse shall not lead, ride, or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

35. Local Government Property Local Law 2011: Under this local law, the use of licensed vehicles are managed. Vehicles includes animals being ridden or driven.
36. Failure to comply with a determination (as communicated through signage), is associated with a prescribed offence and modified penalties.

**Clause 2.1 Determinations as to use of local government property**

- (1) The local government may make a determination in accordance with clause 2.2—
  - (a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;
  - (b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;
  - (c) as to the matters in subclauses 2.7(2) and 2.8(2); and
  - (d) as to any matter ancillary or necessary to give effect to a determination.

37. Division 2 – Activities which may be pursued or prohibited under a determination:

**Clause 2.7 Activities which may be pursued on specified local government property**

- (1) A determination may provide that specified local government property is set aside as an area on which a person may—
  - (a) bring, ride, or drive an animal; ...
- (2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular—
  - (d) may limit the activity to a class of vehicles, boats, equipment, or things, or may extend it to all vehicles, boats, equipment or things; ...
  - (f) may distinguish between different classes of the activity.



**Clause 2.8 Activities which may be prohibited on specified local government property**

- (2) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property—
- (c) taking, riding or driving a vehicle on the property or a particular class of vehicle;...
  - (d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;...
  - (i) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.
- (3) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (2) and, in particular—
- (a) the days and times during which the activity is prohibited;
  - (b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;
  - (c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;
  - (d) that an activity is prohibited in respect of a class of persons or all persons; and
  - (e) may distinguish between different classes of the activity.

*\*Note: A horse is classified as a vehicle under the Road Traffic Act 1974 and Road Traffic Code 2000.*

**Clause 2.3 Discretion to erect sign**

The local government may erect a sign on local government property to give notice of the effect of a determination which applies to that property.

38. The City of Albany Animals Local Law 2020: The City of Albany Animals Local Law 2020 regarding horses can be summarised as follows:

- a. Council may designate specific reserves or foreshores for horse riding or driving.
- b. Horses are prohibited from entering areas not designated for horse use.
- c. Horse riding, driving, exercise, or training in designated areas must not exceed walking pace or cause danger or nuisance to the public, individuals, or animals.
- d. Horses are not allowed in areas specifically designated for dog exercise.
- e. Dogs may be exercised in horse exercise areas, but they must be leashed at all times.
- f. It is an offense for horse owners to permit horses to excrete on public places or land without proper consent, and excreta must be promptly removed and disposed of as per Council's approval.
- g. The designated Horse Exercise Areas are detailed at Schedule 2 to the local law.

39. Road Traffic Code 2000 and Road Traffic Act 1974:

**Section 268. Rider of animal on footpath or nature strip to give way to pedestrians**

The rider of an animal must give way to any pedestrian on a footpath or nature strip.

40. In a Western Australian law context, managing compliance issues on verges and determining whether further actions are required in response to the request for making trail sections on road verges 'horse only' involves considering relevant laws and regulations.
41. The *Road Traffic Act 1974* is the primary legislation that establishes the legal framework for road traffic in Western Australia, while the *Road Traffic Code 2000* is a subordinate legislation that provides detailed regulations and guidelines to support and supplement the provisions of the act.
42. The code is more specific and addresses various aspects of road use, while the act sets out the overarching principles and establishes the regulatory framework for road traffic.
43. The Road Traffic Code 2000 prescribes the use of carriageways, including road verges, noting these laws outline who can use a carriageway, including animals (in this case specifically horses) being driven or ridden, and specifies how it can be used. Specifically:
44. Part 18 – Miscellaneous provisions, Division 2 – Provisions for people in charge of animals
  - s267. Leading animals.
  - s268. Rider of animal on footpath or nature strip to give way to pedestrians.
  - s269. Riding animal alongside more than one other rider.
  - s270. Proper control of animals.
45. Land Administration Act 1997: Enforcement action on the portion of UCL (Unallocated Crown Land) Lot 500 on DP60582 may be undertaken by the City of Albany if permitted by DPLH.

**ENVIRONMENTAL CONSIDERATIONS**

46. Water Corporation's position in relation to Policy 13: Is supportive of the City's position in principle. Also, in line with Operational Policy 13, Water Corporation does not support any horse events on the SBT and requests that the CoA provide the capacity of the SBT as at 2012 levels as a baseline for future reference and any comments.
47. As the City is aware, Water Corporation uses tracks in this area for operational purposes, including accessing water infrastructure, which is required on an ongoing basis. From the information provided it does not appear that this access will be impacted/changed, however if Water Corporation is of the view that there are any operational constraints with the proposed determination, the City remains open to discussing this in more detail as part of the public comment process.
48. DWER's position in relation to Policy 13 is that: All SBT feeder trails that are defined as existing based on historical documented information are recognised under Policy 13 as an existing approved recreation facility.
49. Under Policy 13, submission for assessment and approval would not be required for these existing trails unless use or carrying capacity were to increase and/or expansion was proposed.
50. Proposed additional feeder trails identified in the Robinson Precinct and Stidwell Bridle Trail Study Final Report (Tredwell, April 2022) would be subject to assessment and approval under the policy as they are not an existing approved recreation facility.
51. The proposed 'horse and authorised vehicle only' sections of the trail align with the recommendations from Policy 13, and the City has achieved this goal.

52. Any trail realignment, or new feeder trails will need assessment and approval under Policy 13, which is the policy for the management of recreation within public drinking water source areas.
53. Any proposed changes to feeder trails will be required to be referred to DWER to assess under Operational Policy 13.

## ALTERNATE OPTIONS

54. Council may choose not to support seeking public comment at this time.

## CONCLUSION

55. The proposed determination and control measures detailed in the attachment represent a significant improvement to the SBT.
56. It is recommended that the Council resolves to initiate the determination process and seek public comment, based on the following justification:
  - a. The City has engaged with FSBT in developing the proposed position, considered the group's feedback, and presented this feedback to Council as an attachment to this report for its consideration.
  - b. The City has given DWER, Water Corp and DPLH the opportunity to provide initial feedback as part of the development process, and further formal submissions from these departments will be invited through the public comment period for further consideration.
  - c. The proposal is seeking to clarify permitted uses and implement control measures on sections of the trail and road reserves that fall within the City's land management control.
  - d. The proposed determination will be advertised for a period of public comment.
  - e. The public comment period will give everyone, including government departments, the opportunity to support or object to the proposal.
  - f. The public comment period can be extended if necessary and all submissions will be considered before presenting a final position to Council for decision.

<b>Consulted References</b>	:	<ul style="list-style-type: none"><li>• <a href="#"><i>City of Albany Activities on Thoroughfares and Public Places and Trading Local Law 2011</i></a></li><li>• <a href="#"><i>City of Albany Animals Local Law 2020</i></a></li><li>• <a href="#"><i>City of Albany Local Government Property Local Law 2011</i></a></li><li>• <a href="#"><i>Control of Vehicles (Off-road Areas) Act 1978</i></a></li><li>• <a href="#"><i>Land Administration Act 1997</i></a></li><li>• <a href="#"><i>Local Government Act 1995</i></a></li><li>• <a href="#"><i>Operational Policy 13 – Recreation in public drinking water source areas on Crown land</i></a></li><li>• <a href="#"><i>Robinson Precinct and Stidwell Bridle Trail Study Report by Tredwell</i></a></li></ul>
<b>File Number:</b>	:	EM.PLA.5 – Environmental Management – Planning
<b>Previous Reference</b>	:	<ul style="list-style-type: none"><li>• Strategic Workshop Briefing – 20 June 2023</li><li>• Robinson Precinct and Stidwell Bridle Trail – Implementation Briefing – 28/11/2022</li><li>• Ordinary Council Meeting July 2022, Resolution CCS455</li></ul>