

DIS266: VEHICLES ON BEACHES

Land Description	: City of Albany
Proponent / Owner	: City of Albany
Attachment	: Redacted Schedule of Submissions
Report Prepared By	: Manager City Reserves (J Freeman) Manager Governance & Risk (S Jamieson)
Authorising Officer	: Executive Director Infrastructure, Development & Environment (P Camins)

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 provide strong, accountable leadership supported by a skilled and professional workforce
 - **Community Priority:** Provide positive leadership that delivers community outcomes.

In Brief:

- Council resolved on 22 June 2021 to give public notice to the proposed determination.
- The period of advertising closed on 30 July 2021 with an additional 10 working days added due to an error in advertising. A total of 38 submissions were received and have been detailed in the attachment, and referenced at paragraph 7 of this report.

RECOMMENDATION

DIS266: AUTHORISING OFFICER RECOMMENDATION

THAT Council:

- (1) **NOTE** the submissions received during the public submission period.
- (2) **ADOPT** the proposed determination under the City of Albany Property Local Law 2011:

Vehicles Permitted:

Reserve Name & Number	Proposed Determination
Bettys Beach (North) - R52825	Vehicles Permitted
Emu Point Marina Beach - R22698	Vehicles Permitted
Nanarup Beach (West) - R45631	Vehicles Permitted
Shoal Bay - R25295	Vehicles Permitted

Vehicles Prohibited:

Reserve Name & Number	Proposed Determination
Anvil Beach - R30883	Vehicles Prohibited
Black Swan Point - R25551	Vehicles Prohibited
Boronia Reserve Foreshore - R6862	Vehicles Prohibited
Brambles West - R25295	Vehicles Prohibited
Cosy Corner West - R24547	Vehicles Prohibited
Emu Point Beach South - R22698	Vehicles Prohibited
Middleton Beach - R14789 & R26149	Vehicles Prohibited
Normans Beach - R2031	Vehicles Prohibited
Nullaki Peninsula (Ocean Beach) - R30883	Vehicles Prohibited

Rushy Point - R35754	Vehicles Prohibited
Whaleworld Beach - R21337	Vehicles Prohibited
Vehicles Prohibited other than for boat launching:	
Reserve Name & Number	Proposed Determination
Cheynes Beach (Central) - R878	Vehicles Prohibited other than for boat launching or commercial fishing
Bettys Beach (South) - R52825	Vehicles Prohibited other than for boat launching.
Cape Riche - R1010	Vehicles Prohibited other than for boat launching.
Frenchman's Bay (Whalers Beach) - R21337	Vehicles Prohibited other than for boat launching.

BACKGROUND

- On 22 June 2021, Council resolved to give public notice on the subject determination.

DISCUSSION

- There was a mistake in the advertisement / Public Notice for the Proposed Vehicles on Beaches Determination which appeared in The Weekender on 1 July 2021. This notice had the Frenchman's Bay and Nanarup Beaches around the wrong way.
- The Weekender apologised for these mistakes and agreed to place the appropriate correction notices free of charge. The corrected advertisement was published in the 8 July 2021 edition.

Public Consultation Period:

- As the planned consultation period already exceeded the statutory period of time of 21 days, the closing date for submission remained as 30 July 2021.
- To accommodate the misinformation, the Council allowed for late submissions to be accepted up to 10 working days from the closing date.
- At the close of the public comment period, there were thirty eight (38) submissions opposing including All Beaches (3), Nanarup West (36) and Betty's Beach North (3)); and two (2) submissions in support (Nanarup West) of the proposed determination. Due to the advertising error, submissions will be received up to 10 working days after the closing date of 30 July 2021. Any further submissions will be emailed to Elected Members prior to the DIS Committee meeting on 11 August.
- The submissions received were generally from the same constituents and considered the same key concerns as the original community consultation, however there were very few supporting submissions made during the subsequent public comment period.
- The key themes of concern particularly at Nanarup West were:
 - Safety
 - Anti-social behaviour
 - Environment
- In relation to Nanarup West, City of Albany Ranger team members met with concerned community members to discuss methodologies and reporting channels in relation to safety and anti-social behaviour, committing to (subject to Council resolution):
 - an improved professional presence
 - being as responsive as possible within resource constraints
 - improved education with an aim to modify driver behaviour
 - another meeting with other parties including Police and DBCA

11. Proposed risk mitigation measures are identified within this item and the schedule of submissions.
12. Refer to attached redacted Schedule of Submissions document.

GOVERNMENT & PUBLIC CONSULTATION

13. Additional consultation was made post the 22 June 2021 with the Department of Local Government.
14. On 14 July 2021, the Manager Governance & Risk confirmed that with the amendment of local laws (through determination), the delegation sits within the remit of the City of Albany, and does not require the involvement of the Department of Premier and Cabinet.

STATUTORY IMPLICATIONS

15. The Local Government Property Local Law 2011, prescribes the determination process.

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.

16. Voting requirement for this item is **SIMPLE MAJORITY**.

POLICY IMPLICATIONS

17. There are no direct policy implications.

18. Note under the City of Albany Local Government Property Local Law 2011 (clause 4.8 – Signs):

<p>4.8 Signs</p> <p>(1) A local government may erect a sign on local government property specifying any conditions of use which apply to that property.</p> <p>(2) A person shall comply with a sign erected under subclause (1).</p> <p>(3) A condition of use specified on a sign erected under subclause (1) is—</p> <p>(a) not to be inconsistent with any provision of this local law or any determination; and</p> <p>(b) to be for the purpose of giving notice of the effect of a provision of this local law.</p>

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Reputation <i>Risk: Changes to beach access may not be accepted by some residents.</i>	Likely	Moderate	High	Provide clear signage, information and education on any changes.
People Health & Safety <i>Risk: Vehicle access to beaches can pose a risk to other beach users</i>	Possible	Moderate	Medium	Install Code of Conduct signage and provide information and education.
Environment: Vehicle access to dunes causing damage to environment	Likely	Moderate	High	Monitor and undertake a dune protection plan and provide signage and education
Opportunity: To manage coastal reserves for current use and consolidate compliance requirements.				

FINANCIAL IMPLICATIONS

20. The cost of updated and new signage can be accommodated within existing budget lines.

LEGAL IMPLICATIONS

21. There are no direct legal implications.
22. Compliance will be administered under the City of Albany Local Government Property Local Law 2011.
23. Infringements will be administered by City of Albany Authorised Persons (i.e. Rangers).
24. Non-payment of fines will be administered through the Fines & Enforcement Registry.

ENVIRONMENTAL CONSIDERATIONS

25. Environmental considerations were explored in previous reports and briefings.

ALTERNATE OPTIONS

26. Council may choose not to support the proposal to change beach access for vehicles, in which case ongoing enforcement will be required to manage vehicular access.

CONCLUSION

27. It is recommended that the Council approve the determination to allow better management and compliance of our coastal reserves.

Consulted References	:	<ul style="list-style-type: none"> Local Government Act 1995 City of Albany Property Local Law 2011
File Number (Name of Ward)	:	EM.PLA.5 (All Wards)
Previous Reference	:	<ul style="list-style-type: none"> Council Presentation 12 May 2021, post DIS Committee meeting. OCM 22 June 2021 Resolution DIS260.