

MINUTES

DEVELOPMENT AND INFRASTRUCTURE SERVICES COMMITTEE MEETING

Wednesday 11 May 2022

6.00pm

Council Chambers



**Development & Infrastructure Services Committee
Terms of Reference**

Functions: The Committee is responsible for:

The Development and Infrastructure Services Committee is responsible for delivery of the outcomes defined in the Strategic Community Plan 2032 under the **Planet Pillar** and **Place Pillar**:

- Sustainable management of natural areas, balancing conservation with responsible access and enjoyment;
- Shared responsibility for climate action;
- Responsible growth, development and urban renewal;
- Interesting, vibrant and welcoming places;
- Local history, heritage and character is valued and preserved; and
- A safe sustainable and efficient transport network.

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

Executive Officers: Executive Director Infrastructure, Development & Environment

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 past, present and emerging”.

3. RECORD OF ATTENDANCE, APOLOGIES AND LEAVE OF ABSENCE

Mayor D Wellington

Councillors:

Member	P Terry
Member	A Cruse
Member	G Stocks
Member	M Traill
Member	T Brough
Member	M Benson-Lidholm JP
Member	J Shanhun
Member	D Baesjou
Member	S Smith
Member	A Goode JP
Member	C Thomson (Chair)
Member	R Sutton (Deputy Chair)

Staff:

Chief Executive Officer	A Sharpe
Executive Director Infrastructure, Development and Environment	P Camins
Manager Planning and Building Services	J Van Der Mescht
Manager Reserves	J Freeman
Meeting Secretary	S Herbert

Apologies:

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

In accordance with City of Albany Standing Orders Local Law 2014 (as amended) the following points apply to Public Question Time:

- 5) The Presiding Member may decide that a public question shall not be responded to where—*
- (a) the same or similar question was asked at a previous Meeting, a response was provided and the member of the public is directed to the minutes of the Meeting at which the response was provided;*
 - (b) the member of the public asks a question or makes a statement that is offensive, unlawful or defamatory in nature, provided that the Presiding Member has taken reasonable steps to assist the member of the public to rephrase the question or statement in a manner that is not offensive, unlawful or defamatory.*

7. PETITIONS AND DEPUTATIONS Nil

8. CONFIRMATION OF MINUTES

RESOLUTION

**MOVED: COUNCILLOR SUTTON
SECONDED: COUNCILLOR GOODE**

THAT the minutes of the Development and Infrastructure Services Committee meeting held on 8 March 2022 as previously distributed, be CONFIRMED as a true and accurate record of proceedings.

CARRIED 13-0

9. PRESENTATIONS Nil

10. UNRESOLVED BUSINESS FROM PREVIOUS MEETINGS Nil

DIS299: PORTION ROAD CLOSURES FOR CREATION OF RECREATION & FORESHORE PROTECTION RESERVES

Land Description	: Portions East Bank Road, unnamed road and Riverside Road Kalgan
Proponent / Owner	: City of Albany
Report Prepared By	: Lands Officer (A Veld)
Authorising Officer:	: Executive Director Infrastructure Development and 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:
 - **Pillar:** Planet.
 - **Outcomes:** Sustainable management of natural areas: balancing conservation with responsible access and enjoyment

Maps and Diagrams:

- Figure 1: Map showing area A – Proposed Reserve for Recreation
- Figure 2: Map showing area B – Proposed for Reserve for Foreshore Protection - overview
- Figure 3: Map showing area B – Proposed for Reserve for Foreshore Protection – close up of southern end.
- Figure 4: Map showing area B – Proposed for Reserve for Foreshore Protection – close up of northern end



Figure 1: Area A – Proposed Reserve for Recreation.

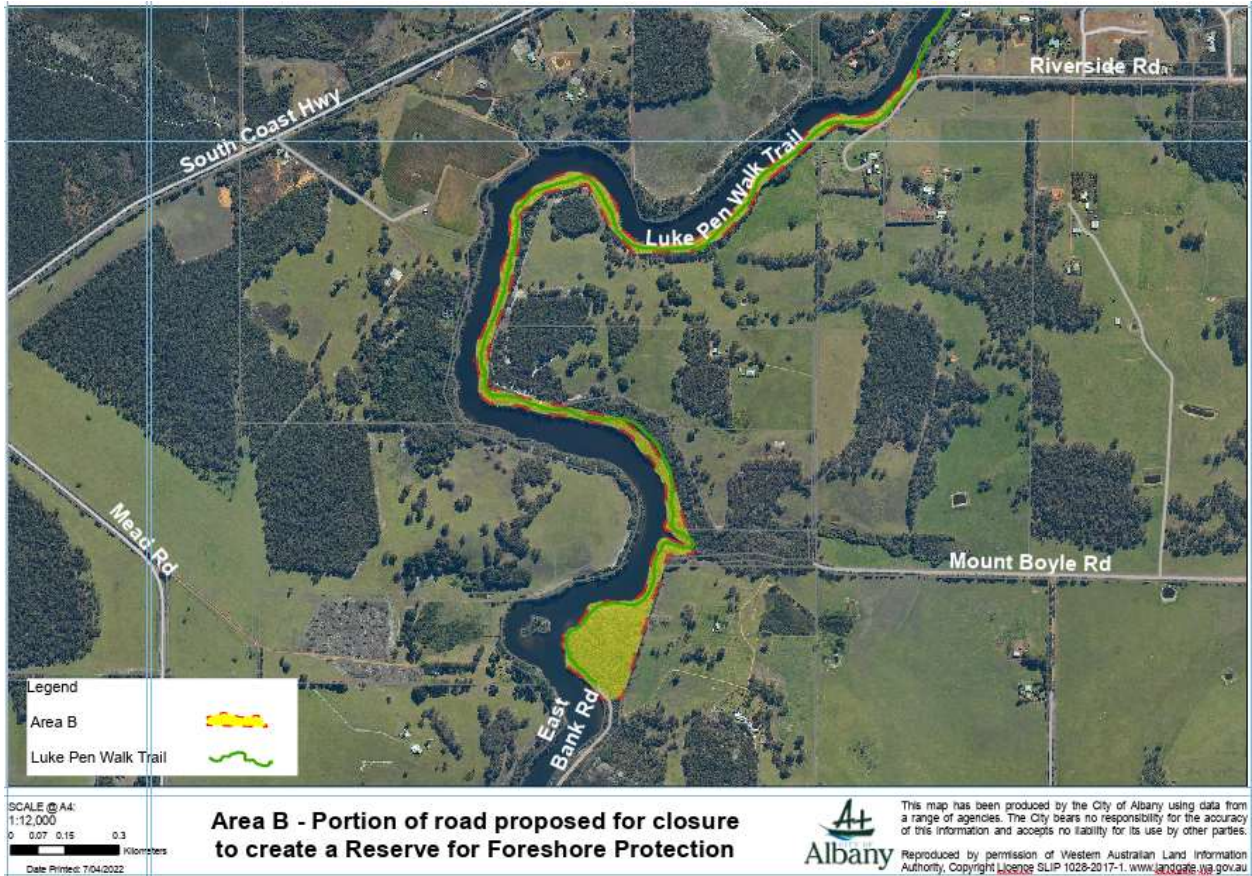


Figure 2: Area B – Proposed for Reserve for Foreshore Protection - overview

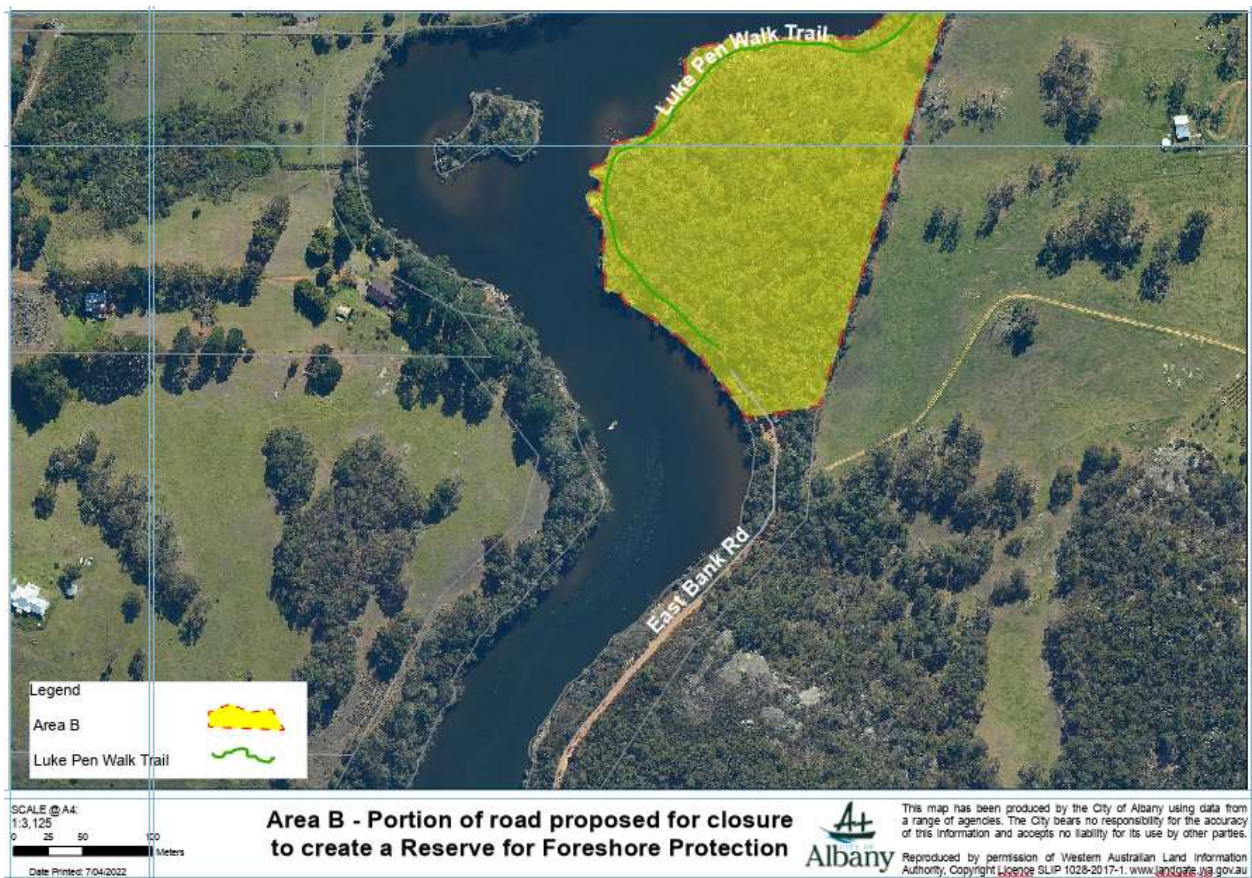


Figure 3: Area B – Proposed for Reserve for Foreshore Protection – close up of southern end

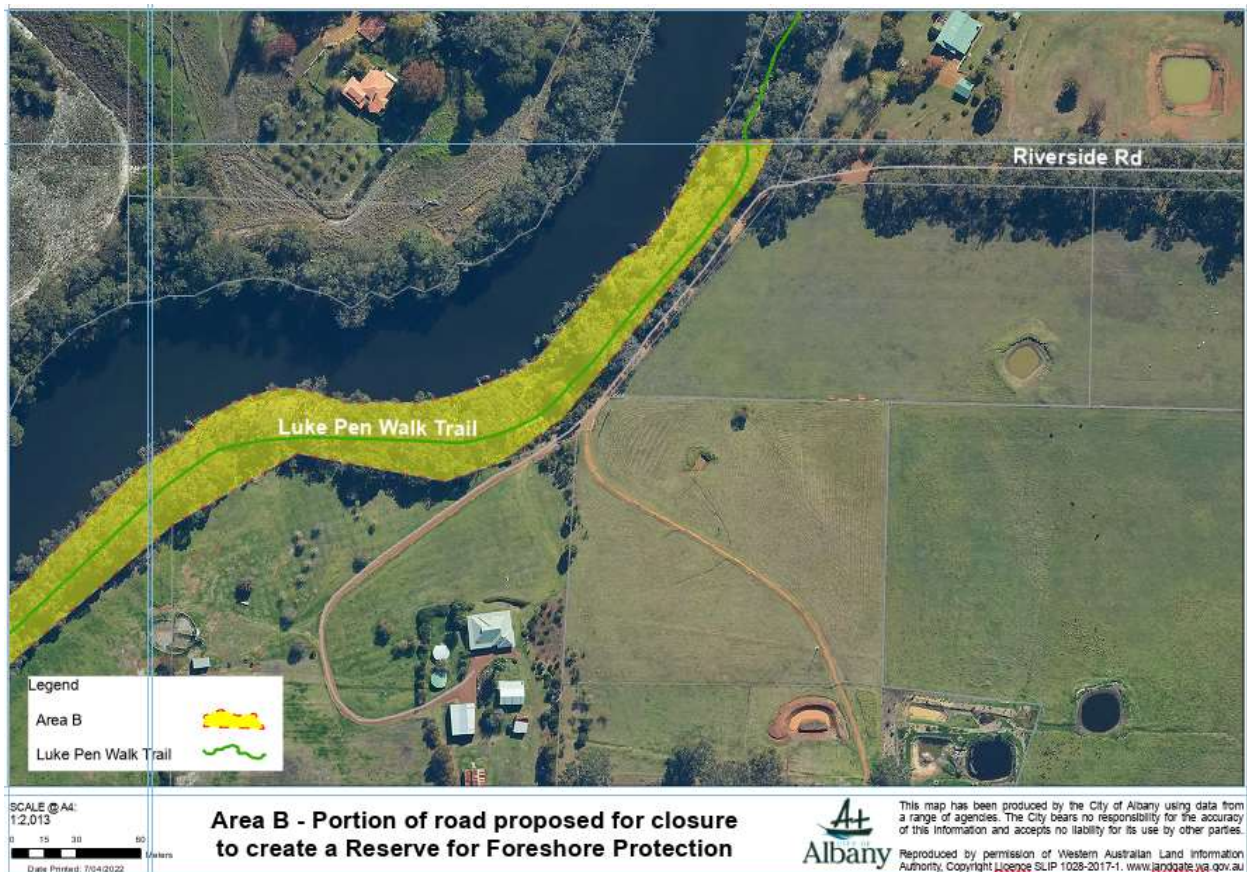


Figure 4: Area B – Proposed for Reserve for Foreshore Protection – close up of northern end

In Brief:

- Public infrastructure is currently located on land that is in a tenure that does not reflect the current use of the land i.e. a road reserve.
- This also prevents the City from being able to upgrade this infrastructure.
- A change in land tenure is required to enable future upgrades and better classify the land to the purpose for which it is being used.

RECOMMENDATION

DIS299: COMMITTEE RECOMMENDATION

**MOVED: COUNCILLOR SMITH
SECONDED: MAYOR WELLINGTON**

THAT the Authorising Officer Recommendation be ADOPTED.

CARRIED 13-0

DIS299: AUTHORISING OFFICER RECOMMENDATION

THAT Council;

1. REQUEST the Minister for Lands to close portions of East Bank Road road reserve, portion unnamed road reserve and portion of Riverside Road road reserve as per plans supplied, under section 58 of the *Land Administration Act 1997* and;
2. REQUEST the Minister for Lands create a Crown Reserve for Area A for the purpose of Recreation and a Crown Reserve for Area B for the purpose of Foreshore Protection under section 41 of the *Land Administration Act 1997* with Management Orders issued to the City of Albany under section 46 of the *Land Administration Act 1997*.

BACKGROUND

2. A number of years ago (over 20 years) two long drop toilets and a brick shelter were installed at a boat launch site on East Bank Road (Figure 1). These facilities were recently removed as they were unauthorised and had since fallen into disrepair, causing public health concerns.
3. The City of Albany also installed a composting toilet at the southern end of the Luke Pen walk (Figure 3) trail in 1998, which now requires upgrading to allow for all abilities access and to be more accessible to users of the water ski site.
4. In order to replace this infrastructure and to reflect the current land usage, the land tenure must be modified.

DISCUSSION

5. Currently a road reserve extends along the eastern shore of the Kalgan River, from the intersection of East Bank Road with Riverview Road in the south to approximately 6km north to Riverside Road, Kalgan.
6. Only portions of this road reserve are currently being used for their intended purpose, namely a 3km section of East Bank Road and a 150m section of Riverside Road.
7. A central section of road reserve contains a 3km stretch of the Luke Pen walk trail and approximately 12 hectares of good to excellent quality native vegetation, including habitat for three species of threatened black cockatoos, the critically endangered Western Ringtail Possum and Osprey.
8. This area is a popular recreation destination for both locals and visitors. The current land tenure precludes replacement of the ablution facilities and shelter as Planning and Building approvals cannot be granted over a road reserve.
9. It is considered unlikely to require construction of a road in the portion of road reserve proposed for closure in this item, as it is a narrow and very steep foreshore area of high environmental and heritage value.
10. In order to facilitate these upgrades and better reflect the use of this land, officers propose to close portions of the current road reserve where the previous facilities and the Luke Pen walk trail are located.
11. Figure 1 shows the portion of East Bank Road reserve proposed to be closed and changed to a reserve for recreation.
12. Figure 2-4 shows the portion of road proposed to be closed and changed to reserve for Foreshore Protection.
13. This action will not affect public or private access to the Kalgan River or adjoining properties.

GOVERNMENT & PUBLIC CONSULTATION

14. The City met with representatives of the Albany Water Ski Club in September 2020, and they were in support of the proposed demolition of the pit toilets and the replacement of the shelter.
15. The City also invited the local Noongar community to two site visit opportunities of these sites, with only one person attending on the day. There was no opposition to the proposed shelter.
16. The Department of Water and Environmental Regulation has also been consulted about the new infrastructure, and no concerns were raised.
17. The City of Albany also wrote to all adjoining landowners seeking comment on the proposal. The City also placed an advertisement in the local newspaper and on the City of Albany Public Notices page, seeking comment on the proposal. Submissions were open for a period of 7 weeks from 24 December 2021 to 11 February 2022.

18. The City received one submission in support of the proposal from an adjoining landowner.
19. Community Engagement

Type of Engagement	Method of Engagement	Engagement Dates	Participation (Number)	Statutory Consultation
Inform	Letters to landowners	24 December 2021 -11 February 2022	11	No
Inform	Public notice in newspaper	24 December 2021 -11 February 2022		Yes
Inform	Public notice on City of Albany website - public comments page	24 December 2021 -11 February 2022		Yes

STATUTORY IMPLICATIONS

20. Section 58(3) of the *Land Administration Act 1997* states that;

“A local government must not resolve to make a request under subsection (1) until a period of 35 days has elapsed from the publication in a newspaper circulating in its district of notice of motion for that resolution, and the local government has considered any objections made to it within that period concerning the proposals set out in that notice”.

POLICY IMPLICATIONS

21. Under Delegation 2022:036 of the City’s Register of Delegations and Authorisations directs that Council is to make the final decision on a road closure request following the advertising period, irrespective of whether submissions have been received.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Risk: People Health & Safety <i>Existing ablution block and shelter would not be able to be replaced</i>	<i>Moderate</i>	<i>Almost Certain</i>	<i>High</i>	<i>Council supports the land tenure change</i>
Risk: Environmental <i>Ablution block is removed causing human pollution of the surrounding area</i>	<i>Moderate</i>	<i>Almost Certain</i>	<i>High</i>	<i>Council supports the land tenure change</i>
Opportunity: <i>The land tenure is changed to better reflect the current use of the land and public facilities are able to upgraded</i>				

FINANCIAL IMPLICATIONS

23. The minimal cost for public advertising of this proposal is covered within the Lands budget.

LEGAL IMPLICATIONS

24. There are no legal implications relating to this proposal.

ENVIRONMENTAL CONSIDERATIONS

25. The proposed change for Area B provides for long-term protection of the environment at this location.
26. No native vegetation will be cleared for the replacement of the shelter, as it will be located on the same footprint as the original shelter.
27. The new toilet will primarily be installed on existing cleared land, with only very minor clearing of very degraded vegetation.

ALTERNATE OPTIONS

28. Council can choose to;
- a) Not support this proposal or;
 - b) Support this proposal with amendments.

CONCLUSION

29. Public infrastructure is currently located on land that is in a tenure that does not reflect the current use of the land i.e. a road reserve. This also prevents the City from being able to upgrade this infrastructure.
30. Officers propose closing portions of the road to create Reserves for Recreation and Foreshore Protection in order to rectify the situation.
31. It is recommended that Council resolve to request the Minister for Lands to undertake the actions required to implement land tenure modifications, in accordance with sections 58 and 41 of the *Lands Administration Act 1997*.

Consulted References	:	<i>Land Administration Act 1997</i> <i>Land Administration Regulations 1998</i>
File Number (Name of Ward)	:	RD.RDC.2 (Kalgan)
Previous Reference	:	None

DIS300: REVIEW OF DOG EXERCISE AREA POLICY – RUSHY POINT AND BINALUP / MIDDLETON BEACH

Land Description	: Reserves R35754, R14754, R26149 and Flinders Parade
Proponent / Owner	: City of Albany
Attachments	1. Submissions received 2. Draft amended Dog Exercise, Prohibited and Rural Leashing Areas Policy 3. Draft amended Dog Exercise Areas brochure
Report Prepared By	: Manager City Reserves (J Freeman) Reserves Officer (S Maciejewski)
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 2032:
 - **Pillar:** People: A diverse and inclusive community.
 - **Outcome:** Provide facilities and services to meet the needs of families and young children
 - **Pillar:** Planet: Sustainable management of natural areas; balancing conservation with responsible access and enjoyment.
 - **Outcome:** Provide sustainable protection, adaption and enhancement of the coastline, rivers, floodplains, wetlands and estuaries.

Maps and Diagrams:



Figure 1 - New Dog Prohibited Area at Rushy Point and removal of Rural Leashing Area.



Figure 2 - Proposed amended boundary of the Dog Prohibited Area at Binalup / Middleton Beach.

In Brief:

- Council resolved on 22 February 2022 (DIS292) to advertise the proposed amendments to the “Dog Exercise, Prohibited and Rural Leashing Areas Policy” for no less than 21 days.
- Public submissions were facilitated using an online survey to gauge the level of support for each proposed amendment.

RECOMMENDATION

**DIS300: ALTERNATE MOTION BY COUNCILLOR TERRY
VOTING REQUIREMENT: SIMPLE MAJORITY**

**MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR TRAILL**

THAT Council:

- (1) **NOTE** the submissions received during the public advertising period.
- (2) **APPROVE** the following amendments to the Dog Exercise, Prohibited and Rural Leashing Areas Policy:
 - a) **Rushy Point:**
 - Remove the Rural Leashing Area (to give effect to allowing dogs to exercise in that amended area); and
 - Add a Dog Prohibited Area to a section of the current Rural Leashing Area to protect migratory birds as per Figure 1.
 - b) **Binalup/Middleton Beach:**
 - Make the amendments shown on Figure 2 to give effect to:
 - Allowing dogs on leashes on all of the grassed areas and constructed paths in the Binalup/Middleton Beach precinct;
 - Prohibiting dogs on Binalup/Middleton Beach from Ellen Cove north to the Dog Exercise Area

CARRIED 11-2

Record of Vote

Against: Councillors Baesjou and Cruse

Councillor Reason:

Question 1 – 33.8% Yes 66.2% No – note 5 Yes responses moved to no. Would argue there could be at least 4-5 more that could be moved to no because it appears from those comments that the respondents interpreted the question applied to ALL of the grassed area not just north of surf club. If that were the case then yes vote would be 21.25% and no 78.75%.

Very interesting that none of the No responses to this question provided reasons for their No response. Was there a problem with the survey when someone responded No here where they couldn't provide a response?

Could be argued that those that responded No at Question 1 and presumably No at Question 2 that they want the whole of the grassed areas to allow Dogs on Leash.

Responses to those that responded No to Question 2 would indicate they support dogs prohibited on the beach but allowed on grassed areas between Boardwalk and Surf Club.

Taking the two questions asked together it would indicate that there is broad support from those that responded for prohibiting dogs on the beach but allowing them on leash on ALL grassed areas.

I note a few comments about making the grassed area between Three Anchors and the commencement of the Boardwalk as an area for dogs on leash but I would argue that this would

be confusing if dogs on leash on grass in two sections be allowed but the area in between not be allowed, so do not propose this as an alternative.

Para 22 of report – Argument made that the officer recommendation was a good compromise and would make it easier for Rangers to police I find a weak argument as I would've thought it'd be harder to police if dogs were allowed on the constructed paths but not on the grassed area, especially when the constructed paths cross the grassed areas in 3 places.

Additionally argument made that to allow dogs on an additional area south of the surf club would be confusing for users is once again a weak argument and I would argue that the exact opposite would be the case ie it makes it confusing for users.

I therefore make the case to allow dogs on leash on ALL grassed areas and constructed paths in the Binalup/Middleton Beach precinct.

Officer Comment (Executive Director IDE):

Officers have made their recommendation, but will support any resolution of council.

It is acknowledged that the survey could have been more legible. Consideration could be given to delaying this item and undertaking additional consultation to reach a community position.

DIS300: AUTHORISING OFFICER RECOMMENDATION

THAT Council:

- (1) NOTE the submissions received during the public advertising period.
- (2) APPROVE the following amendments to the Dog Exercise, Prohibited and Rural Leashing Areas Policy:
 - a) Rushy Point:
 - Remove the Rural Leashing Area (to give effect to allowing dogs to exercise in that amended area); and
 - Add a Dog Prohibited Area to a section of the current Rural Leashing Area to protect migratory birds as per Figure 1.
 - b) Binalup/Middleton Beach:
 - Make the amendments shown on Figure 2 to give effect to:
 - Allowing dogs on leashes only on the grassed area south of the caravan park and north of the surf club;
 - Allowing dogs on leashes on all constructed paths within the area; and
 - Prohibiting dogs on all other grassed areas and on the beach.

BACKGROUND

2. The City has received a number of emails/letters from individuals and groups regarding the Rural Leashing Area at Rushy Point. In response to these submissions, and some initial liaison with users of the reserve, City Officers have identified the need to review the Policy in regards to this reserve.
3. Due to the recent redevelopment works at Binalup / Middleton Beach, City officers have identified the need to amend the Policy in regards to this precinct.
4. On 22 February 2022, Council resolved to advertise proposed amendments to the Policy for Rushy Point and Binalup / Middleton Beach.
5. The Policy has been amended in accordance with the proposed authorising officer recommendations. The brochure has also been updated to ensure the rules and maps are clear for the community to understand. Both drafts are attached and all changes will be clearly defined on onsite signage.

DISCUSSION

6. An online survey was made available for the Community to provide feedback on the proposed amendment for a period of 21 days between 9 March and 30 March 2022.
7. The online survey was promoted through advertisements published in local newspapers and signs installed at the relevant sites.
8. Key stakeholders such as Middleton Beach Group, South Coast Progress Association and the Albany Bird Group were also made aware of the survey in writing.
9. A total of 236 responses were received, made up of:
 - a. 86 responses relating to Rushy Point; and
 - b. 150 for Binalup / Middleton Beach.
10. A summary of the 148 total written submissions, are detailed below:

Rushy Point Reserve

11. **Question 1: Do you agree to allowing dogs to be exercised off leash on the eastern side of Rushy Point Reserve only, south of the existing bollards:**
 - **Response:** 64.4 % of people want dogs to be permitted to be exercised off leash on the eastern side of Rushy Point.
12. **Question 2: Do you agree to adding a Dog Prohibited Area along the northern foreshore of Rushy Point Reserve around to the bollards on the eastern side, to protect migratory birds.**
 - **Response:** 80.5% of people support the proposed Dog Prohibited Area at Rushy Point.
13. Noting Rushy Point is not located in a gazetted “town site”, approved by the Minister for Lands, under the *Land Administration Act 1997*, the current “Rural Leashing Area Only” can be removed by Council.
14. Respondents who support allowing dogs off leash, may not be aware of the impacts of disturbing migratory birds that have travelled across the world to rest and feed on the shores in Albany.
15. Therefore, signage will be installed to clearly indicate the Dog Prohibited Area. Existing interpretative signage that provides information on migratory birds will be updated and replaced.
16. The Rushy Point consultation was quite convincing in support of the proposed recommendations.

Binalup / Middleton Beach

17. **Question 1: Do you agree to allow dogs on leashes only on the grassed area north of the Surf Club and south of the playground:**
- **Response:** 33.8% of people agreed to allow leashed dogs only in the proposed grassed area. The comments received in relation to the “yes” vote indicate that this result primarily came from people who thought it was a good compromise, but do not want dogs on all grassed areas. However, it is evident from the comments that some people who voted “yes”, are in support of dogs being on leash on all grassed areas.
 - **Response:** 66.2% of people said no to dogs on leash only on proposed leashed grass. However, there were no comments received as part of these responses, although the comments received for Question 2 (below) do suggest that people voted “No” as they would like dogs to be permitted on leash on all grassed areas.
18. **Question 2: Do you agree to prohibiting dogs on all other grassed area and on the beach (with dogs on a leash allowed on constructed paths):**
- **Response:** 38.6% of people voted “yes” to prohibiting dogs on all other grassed areas. The key reasons for this response include irresponsible dog ownership as well as the fact that some people are afraid of dogs or are allergic to dogs.
 - **Response:** 61.4% of people voted “no” to prohibiting dogs on all other grassed areas. Comments indicate that some people would like to take their dogs everywhere with them, whilst others were more conditional with comments around the need for responsible dog ownership.
 - Even though there is a higher percentage of “no” submissions, between the responses from both questions it is evident that many dog owners would like to take their dogs everywhere with them.
19. The support for allowing dogs on leashes on all grassed areas, was generally on the basis of dogs being well behaved, not bothering anyone, being on a leash and only if their owners pick up their excrement. This would make enforcement somewhat confusing and virtually impossible to manage.
20. By allowing dogs on a portion of the grassed areas at Binalup provides a good community compromise. Although there were comments regarding not being able to take dogs on the grass where there are views, they are still able to have them on a leash on paths. With the foreshore redevelopment, there are now significantly more constructed paths in the precinct where dogs are still allowed on a leash.
21. City officers recommend adoption of the original amendment for the following reasons:
- It provides a good compromise by providing a grassed area that dogs are allowed on a leash;
 - Allowing dogs on all grassed areas would not cater for those who do not want dogs everywhere; and
 - To allow dogs on an additional area of grass to the south of the surf club would be confusing for users, as well as difficult for the rangers to enforce.

Summary

22. Although many people follow the rules when exercising their dogs in public places, irresponsible dog ownership is a well-known issue. This is evident by the number of complaints received by the City on this matter, and by observations made by staff on a daily basis. This behaviour continues despite actions already taken to address these issues through education, signs and enforcement.
23. Issues with dog behaviour are common at both Rushy Point and Binalup / Middleton Beach, and the following mitigation actions are required at each of these sites no matter what the outcome:
 - **Uncontrolled dogs** – more education on responsible dog ownership in the form of signs and enforcement.
 - **Dog poo and poo bags** – more education on picking up dog poo in the form of signs and enforcement.
 - **Other Dog Exercise Areas in Albany** – update brochure, more signs and detailed site maps on the City’s website.

GOVERNMENT & PUBLIC CONSULTATION

24. Proposed amendments were advertised for public comment for 21 days between 9 March and 30 March, 2022.
25. The complete record of submissions is attached.

STATUTORY IMPLICATIONS

26. The *Dog Act 1976* has been considered in development of this Policy.
27. City of Albany’s *Dog Local Law 2017* guides the development of dog prohibited and permitted areas.
28. The voting requirement is **Simple Majority**.

POLICY IMPLICATIONS

29. Draft amended Policy attached.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Environmental: If the Policy is not reviewed for Rushy Point, then there could be an increase in the impacts on shorebirds.</i>	<i>Likely</i>	<i>Moderate</i>	<i>High</i>	<i>Staff will continue to address existing issues through education and infringements</i>
<i>Reputation: If the Policy is not amended for Binalup / Middleton Beach, then there will be continued confusion by users on the dog exercise rules for this area making it difficult to enforce.</i>	<i>Almost Certain</i>	<i>Minor</i>	<i>High</i>	<i>Staff will continue to spend time addressing existing issues through education and infringements</i>
<i>Opportunity: To classify dog prohibited, exercise and rural leashing areas within the City of Albany boundaries.</i>				

FINANCIAL IMPLICATIONS

31. Funds within the current operational budget will be utilised for signage and ongoing education.

LEGAL IMPLICATIONS

32. Nil

ENVIRONMENTAL CONSIDERATIONS

33. It is acknowledged that dogs have the potential to impact on environmental values especially where they are not controlled or on leash.

ALTERNATE OPTIONS

34. Council could choose to make no changes to the Policy.

CONCLUSION

35. The Policy continues to attract community comment demonstrating the high level of community interest in this subject. The comments have been diverse, demonstrating the difficulty faced in developing a policy that would be acceptable to all community members.
36. The Authorising Officer Recommendation proposes a balanced outcome that protects and allows all members of our community to share and enjoy the City of Albany’s well-used public spaces.

Consulted References	:	See consultation report from DIS132 OCM November 2018, DIS202 OCM March 2020, and DIS292 OCM February 2022.
File Number (Name of Ward)	:	CR.COC.54 – Community Relations, Community Consultation Dog Exercise Area Policy

DIS301: CLEARING IN COUNCIL CONTROLLED LAND

Land Description	: City owned and managed land
Proponent / Owner	: City of Albany.
Attachments	: 1. Current policy position 2. Proposed alternative policy position
Report Prepared By	: Manager City Reserves (J Freeman) Manager Governance & Risk (S Jamieson)
Authorising Officer:	: Executive Director, Infrastructure and Environment (P Camins)

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the City of Albany Strategic Community Plan and Corporate Business Plan informing strategies and implementation plans:
 - **Pillar:** Planet: We are leaders in sustainability with a shared commitment to climate action and protecting our beautiful, natural environment.
 - **Outcomes:** Sustainable management of natural areas; balancing conservation with responsible access and enjoyment.
2. This item relates to the following strategic goals prescribed in the City of Albany's current Natural Reserves Strategy:
 - **Goal 1.1:** To preserve and increase the ecological values of our natural reserves.
 - **Goal 3.1:** To provide recreational facilities that minimise impact on the natural environment.

In Brief:

- Request Council consider rescinding the Council adopted policy position.
- Fully reviewed and updated policy position presented as an alternative should Council wish to review and consider.

RECOMMENDATION

DIS301: PROCEDURAL MOTION

MOVED: COUNCILLOR TERRY
SECONDED: COUNCILLOR BROUGH

THAT discussion of this matter be ADJOURNED and RECOMMENCE at the DIS Committee meeting to be held 13 July 2022.

CARRIED 12-1

Record of Vote:

Against the Motion: Councillor Stocks

DIS301: AUTHORISING OFFICER RECOMMENDATION

THAT:

- (1) The “Clearing in Council Controlled Land Policy” be RESCINDED, NOTING that the Department of Water and Environmental Regulation (DWER) administers the clearing provisions of the Environmental Protection Act 1986 (EP Act).
- (2) City operations charged with the responsibility to “Clear Native Vegetation” are guided by approved work practices and guidelines.
- (3) Council’s commitment to protecting our beautiful, natural environment, embedded in City of Albany Community Strategic Plan 2032 and Natural Reserves Strategy, be NOTED.

BACKGROUND

3. Local governments have clearing exemptions, on land that is classified as “Maintenance Zones”.
4. The current policy position titled “Clearing in Council Controlled Land Policy” was originally adopted by Council in 2006 and has been embedded in the City’s Reserve Management daily work procedures since to avoid and minimise environmental impact.
5. This policy position endorsed the use of the supporting Guidelines, which were drafted to minimise the environmental impacts that could be caused by works carried out on Council controlled land.

DISCUSSION

6. External service providers (i.e. contractors, leases), that are required to undertake works on City controlled land are referred to the supporting guidelines (which have been historically referred to as a Code of Responsible Land Management) and compliance requested.
7. The City’s Reserve Teams, and the City’s Executive Management Team have reviewed the proposed revised policy and propose that the policy position is rescinded as a Council adopted policy position and replaced as an administrative position. The preference for this position is because breaches of the Code are reported, investigated and action is taken in accordance with the law, guided by the Council’s adopted Regulatory Compliance Policy position and associated legislation and a policy is not deemed necessary.
8. Proposed Administrative Position:

The City of Albany is committed to protecting our beautiful, natural environment.

To minimise environmental impacts on City managed land, City Officers who conduct works or engage others to conduct works on the City’s behalf are responsible for ensuring:

1. Work, activities or undertakings comply with the City approved Environmental Land Management Guidelines, also referred to as a Code of Responsible Land Management (the Code);
2. Best practice flora and fauna management processes are implemented where possible;
3. Facilitate and/ or deliver appropriate training to improve staff and contractor knowledge and therefore understanding of best practice environmental protection operating procedures;
4. Works are actively monitored to ensure compliance in accordance with this Code; and
5. Breaches of the Code are reported, investigated and action is taken in accordance with the law, guided by the Council’s adopted Regulatory Compliance Policy position and associated guidelines.

GOVERNMENT & PUBLIC CONSULTATION

9. The revised policy document has been guided by staff and contractor feedback and changes to the guiding laws and subsidiary legislation:
- a) Environmental Protection Act 1986;
 - b) Environmental Protection (Clearing of Native Vegetation) Regulations 2004;
 - c) Environmental Protection (Environmentally Sensitive Area) Notice 2005;
 - d) City of Albany Local Government Property Local Law 2011; and
 - e) City of Albany Activities on Thoroughfares and Public Place and Trading Local Law 2011.

STATUTORY IMPLICATIONS

10. There are no direct statutory implication related to this report.

POLICY IMPLICATIONS

11. Legislative requirements under written laws are required and considered when assessing the clearing of native vegetation.
12. These include whether the proposal requires a prescribed premise works approval or licence under the EP Act, a groundwater or surface water licence under the Rights in Water and Irrigation Act 1914 and native title Department of Environment Regulation 40 requirements under Commonwealth Native Title Act 1993, Aboriginal Sites of Significance under the Aboriginal Heritage Act 1972 and local government requirements such as extractive industry licences.
13. Supporting enabling guidelines will be updated to reflect the decision of Council accordingly.

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<p>Reputation:</p> <p><i>Risk: Perception that Council is not committed to protecting our beautiful, natural environment if the revised policy position is not re-adopted.</i></p>	Possible	Moderate	Medium	<p><i>Clearly articulate that post the adoption of this original policy position in 2006 that clearing of native vegetation prescribed practices have been implemented into City work practices.</i></p> <p><i>Council's commitment to protecting our beautiful, natural environment is encapsulated and the City's Community Strategic Plan 2032 and measured through the City's Corporate Business Plan's informing strategies and implementation plans.</i></p> <p><i>City operations are held to account by law and compliance achieved through approved work practices and guidelines.</i></p>
<p>Opportunity: <i>The review of the current policy provides an opportunity to promote that clearing of vegetation on council controlled land is regulated by law.</i></p>				

FINANCIAL IMPLICATIONS

15. There are no direct financial implications related to this report.

16. Breaches of Council local laws are administered through existing budget lines.

LEGAL IMPLICATIONS

- 17. Clearing native vegetation is an offence, unless done under a clearing permit or the clearing is for an exempt purpose.
- 18. Local governments are responsible for ensuring their operations are compliant with the law.
- 19. The Department of Water and Environmental Regulation (DWER) administers the clearing provisions of the Environmental Protection Act 1986 (EP Act).

ENVIRONMENTAL CONSIDERATIONS

- 20. In late 2021, DWER introduced a new referral process.
- 21. Prospective applicants are able to refer proposed clearing with very low environmental impacts to the relevant department to decide whether a clearing permit is required.
- 22. Native vegetation clearing should only be considered after all other reasonable attempts to mitigate adverse impacts have been exhausted. Potential environmental impacts should be addressed using the impact mitigation sequence:
 - a) avoid – avoid impact altogether;
 - b) minimise – limit the severity of the impact;
 - c) rehabilitate – restore maximum environmental value of the impact; and
 - d) offset – offset significant residual impacts.
- 23. In determining the necessity of the clearing, higher priority will be given to clearing for public use than private benefit or commercial gain.

ALTERNATE OPTIONS

- 24. Noting that Council may choose to retain having a policy position, an updated policy position “Environmental Management Land Policy” has been prepared as an alternative for review and consideration.
- 25. The revised policy position and associated guidance documents have been updated to ensure they are relevant (i.e. meet both community expectations communicated in the Community Strategic Plan 2032, the City’s Natural Reserve Strategy and enable legislative compliance).

CONCLUSION

- 26. It is recommended that Council consider rescinding the policy position, noting The Department of Water and Environmental Regulation (DWER) administers the clearing provisions of the Environmental Protection Act 1986 (EP Act).
- 27. It is recommended that the Authorising Officer’s Recommendation be adopted.

Consulted References	:	<ul style="list-style-type: none"> • <i>Local Government Act 1995</i> • <i>City of Albany Local Government Property Local Law 2011;</i> • <i>City of Albany Activities on Thoroughfares and Public Place and Trading Local Law 2011;</i> • <u><i>A guide to the assessment of applications to clear native vegetation, Under Part V Division 2 of the Environmental Protection Act 1986, dated December 2014;</i></u> and • <i>City of Albany Natural Reserves Strategy.</i>
File Number (Name of Ward)	:	CM.STD.7 – Policy (All Wards)
Previous Reference	:	OCM 19/12/2006 Report 13.7.4

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN Nil

12. MEETING CLOSED TO THE PUBLIC Nil

13. CLOSURE

There being no further business the Chair declared the meeting closed at 7.07pm.

(Unconfirmed Minutes)

Councillor Thomson
CHAIR