



AGENDA

SPECIAL COUNCIL MEETING

Wednesday 11 November 2020

To be Held After the Development and Infrastructure Services Committee Meeting

City of Albany
Council Chambers

CITY OF ALBANY COMMUNITY STRATEGIC PLAN (ALBANY 2023)



NOTICE OF A SPECIAL COUNCIL MEETING

His Worship the Mayor and Councillors

A Special Meeting of Council for the City of Albany will be held on Wednesday 11 November 2020 in the Council Chambers, North Road, Yakamia immediately after the Development and Infrastructure Services Committee Meeting.

The purpose of the meeting is to consider:

SCM019: City of Albany Jetties, Bridges, Boat Pens, Swimming Structures Local Law Undertaking.

Andrew Sharpe
CHIEF EXECUTIVE OFFICER

SPECIAL COUNCIL MEETING
AGENDA – 11/11/2020

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SPECIAL COUNCIL MEETING
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1. **DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS:**

2. **OPENING PRAYER:**

“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, present and emerging”.

3. **PUBLIC QUESTION AND STATEMENT TIME:**

Each person asking questions or making comments at the Open Forum will be **LIMITED** to a time period of **4 MINUTES** to allow all those wishing to comment an opportunity to do so.

4. **RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE (PREVIOUSLY APPROVED):**

Mayor	D Wellington
Councillors:	
Breaksea Ward	R Hammond
Breaksea Ward	P Terry
Frederickstown Ward	G Stocks
Frederickstown Ward	R Stephens
Kalgan Ward	E Doughty
Kalgan Ward	M Benson-Lidholm JP
Vancouver Ward	J Shanhun
West Ward	A Goode JP
West Ward	S Smith
Yakamia Ward	R Sutton
Yakamia Ward	C Thomson
Staff:	
Chief Executive Officer	A Sharpe
Executive Director Infrastructure and Environment	P Camins
Manager Governance and Risk	S Jamieson
Meeting Secretary	S Cole
Apologies:	
Vancouver Ward	T Sleeman (Leave of Absence)

5. **DECLARATIONS OF INTEREST:**

Name	Report Number	Nature of Interest

**SCM019: JETTIES, BRIDGES, BOAT PENS AND SWIMMING
STRUCTURES LOCAL LAW 2020 - UNDERTAKING**

Land Description	: City of Albany
Proponent / Owner	: Joint Standing Committee on Delegated Legislation
Business Entity Name	: City of Albany
Supplementary Information	: Confidential Letter from Committee dated 4 November 2020, distributed separately.
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 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:** Provider positive leadership that delivers community outcomes.

In Brief:

- The Joint Standing Committee on Delegated Legislation (the Committee) is unable to wait to receive undertakings after the next scheduled council meeting scheduled to be held on 24 November 2020.
- Council is requested to consider the undertaking as an urgent, noting urgent being defined in the City of Albany Standing Orders Local Law meaning something which is a matter of public or administrative importance that has to be dealt with prior to the next ordinary meeting.

RECOMMENDATION

**SCM019: RESPONSIBLE OFFICER RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

The Council of the City of Albany resolves to undertake to the Joint Standing Committee on Delegated Legislation that the City will:

- 1. Within six (6) months, amend the City of Albany Jetties, Bridges, Boat Pens and Swimming Structures Local Law 2020 to:**
 - a. in clause 2.2, delete each occurrence of the words 'the jetties' and replace them with the words 'a jetty';**
 - b. in clause 1.5, insert a definition of 'Land';**
 - c. in clause 1.5, insert a definition of 'Ellen Cove Jetty';**
 - d. in clause 2.3(2), delete '3.2(2)(a)' and insert either 3.4 or 3.5 (whichever the City considers applicable);**
 - e. amend either clause 3.9 or 4.7 to remove the inconsistency between the time frames in which a vessel must be removed;**
 - f. in clause 2.19, delete the word 'filth';**
 - g. delete clause 4.4;**
 - h. in clause 5.2(3), insert the words 'by resolution' after the word 'decide'**
 - i. insert an exemption to the prohibition of animals in or on any part of the pen system for assistance animals;**
 - j. make any other necessary consequential amendments).**
- 2. Until the Local law is amended in accordance with undertaking 1:**
 - a. Not enforce the Local Law in a manner contrary to undertaking 1.**
 - b. Where the Local Law is made publicly available, whether in hard copy or electronic form (including on the City's website), ensure that it is accompanied by a copy of these undertakings.**

BACKGROUND

2. The Joint Standing Committee on Delegated Legislation's (the Committee) wrote to City of Albany on the 4 November 2020.
3. The short time period for response is due to the approaching final sitting day of the Parliament, which is anticipated to be 26 November 2020. Any disallowance motions which remain on the Notice Paper on the last day of Parliament are required to be voted upon on that day.
4. The Committee hopes to receive the undertakings in sufficient time to remove the Notice of Motion to Disallow from the Notice Paper, so that Disallowance of the Local Law is not required
5. The Committee is unable to wait to receive undertakings after the City's next scheduled council meeting on 24 November 2020.

DISCUSSION

6. The latest possible extension for an undertaking that the Committee can provide is this Friday, 13 November 2020.

7. If the Committee is not provided with an undertaking by COB on this day (Friday, 13 November 2020), the Committee will proceed with the printing and tabling of its disallowance report.
8. In regards to the Notice of Motion from Committee to disallow the local law, it should not be taken that the Committee has resolved to recommend disallowance of the Local Law at this stage.
9. The giving of a protective Notice, which is facilitated by the proposed undertaking, allows both the Council and the Committee additional time to deal with and respond to the issues identified.
10. Council is requested to resolve to make the undertaking detailed in the Responsible Officer's Recommendation.

GOVERNMENT & PUBLIC CONSULTATION

11. Consultation will be conducted during the local law amendment process, which will occur within the next 6 months.

STATUTORY IMPLICATIONS

12. If Council resolves not to approve the undertaking the local law will be disallowed.

POLICY IMPLICATIONS

13. Detailed in the discussion section of the report.

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>Business Operation:</p> <p><i>Risk: The undertaking is not approved.</i></p>	Likely	Moderate	High	Approve the undertaking.
<p>Opportunity: <i>By supporting the Committee's request and meet the time line, will allow the Committee to receive the undertakings in sufficient time to remove the Notice of Motion to Disallow from the Notice Paper, so that Disallowance of the Local Law is not required.</i></p>				

FINANCIAL IMPLICATIONS

15. Minor administration costs will be incurred.

LEGAL IMPLICATIONS

16. It is a legal requirement that the undertakings are given in the form of a letter signed by the Mayor to the Committee.
17. The undertakings cannot be signed by the Chief Executive Officer or another officer of the City.
18. This is because, pursuant to section 2.8(1)(d) of the Local Government Act 1995, the Mayor speaks on behalf of the local government to the Parliament of Western Australia.

ENVIRONMENTAL CONSIDERATIONS

19. Not applicable to this report.

ALTERNATE OPTIONS

20. No alternate options are proposed.

CONCLUSION

21. It is recommended that Council resolve to approve the undertaking, noting this allows both the Council and the Committee additional time to deal with and respond to the issues identified.

Consulted References	:	Local Government Act 1995
File Number (Name of Ward)	:	All Wards
Previous Reference	:	Not applicable to this report.

6.0 CLOSURE OF MEETING