



**ORDINARY MEETING OF COUNCIL
MONDAY, 13 FEBRUARY 2023**

AGENDA

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AGENDA

REPORTS

**TECHNICAL SERVICES COMMITTEE MEETING
HELD ON 6 FEBRUARY 2023**

**COMMUNITY SERVICES COMMITTEE MEETING
HELD ON 7 FEBRUARY 2023**

CHIEF EXECUTIVE OFFICER'S REPORT

NOTICE OF MEETING AND AGENDA

CR _____

PLEASE TAKE NOTICE that the next **ORDINARY MEETING OF COUNCIL** will be held in the Council Chambers, Orchard Avenue, Armadale at **7.00pm**

MONDAY, 13 FEBRUARY 2023

**JOANNE ABBISS
CHIEF EXECUTIVE OFFICER**

9 February 2023

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

2 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

**3 ADVICE OF RESPONSE TO PREVIOUS PUBLIC QUESTIONS
TAKEN ON NOTICE**

Nil

4 PUBLIC QUESTION TIME

Public Question Time is allocated for the asking of and responding to questions raised by members of the public.

*Minimum time to be provided – 15 minutes (unless not required)
Policy and Management Practice EM 6 – Public Question Time has been adopted by Council to ensure the orderly conduct of Public Question time and a copy of this procedure can be found at <http://www.armadale.wa.gov.au/PolicyManual>.*

It is also available in the public gallery.

The public's cooperation in this regard will be appreciated.

5 APPLICATIONS FOR LEAVE OF ABSENCE

Nil

6 PETITIONS

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**8 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT
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BUSINESS ARISING FROM REPORT

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

**12 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR
BY DECISION**

**13 MATTERS FOR REFERRAL TO STANDING COMMITTEES –
WITHOUT DISCUSSION**

14 MATTERS REQUIRING CONFIDENTIAL CONSIDERATION

15 CLOSURE

CITY OF ARMADALE

MINUTES

OF TECHNICAL SERVICES COMMITTEE HELD IN THE FUNCTION ROOM,
ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON MONDAY, 6
FEBRUARY 2023 AT 7:00 PM.

PRESENT:

Cr G Nixon (Chair)
Cr E J Flynn (Deputy Chair)
Cr R Butterfield
Cr M S Northcott
Cr S Peter JP
Cr G J Smith

APOLOGIES:

Cr P A Hetherington (Leave of Absence)
Cr S J Mosey (Leave of Absence)
Cr S S Virk (Leave of Absence)
Cr M Silver

OBSERVERS:

Cr J Keogh (*via Teams*)

IN ATTENDANCE:

Ms J Abbiss	Chief Executive Officer
Mr M Andrews	Executive Director Technical Services
Mr J Lyon	Executive Director Corporate Services (<i>via Teams</i>)
Ms S van Aswegen	Executive Director Community Services (<i>via Teams</i>)
Mr S Amasi	Manager Design Technical Services
Ms A Lazaroo	Executive Assistant Technical Services (<i>via Teams</i>)
Ms N Mathieson	Senior Administration Officer Technical Services

PUBLIC:

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*“For details of Councillor Membership on this Committee, please refer to the City’s website
– [www.armadale.wa.gov.au/your council/councillors](http://www.armadale.wa.gov.au/your_council/councillors).”*

DISCLAIMER

The Disclaimer for protecting Councillors and staff from liability of information and advice given at Committee meetings was read as there were members of the public present.

DECLARATION OF MEMBERS' INTERESTS

Nil

QUESTION TIME

Wymond Road Project, Roleystone

Ms Sarah Stoneham – 31 Wymond Road, Roleystone

Q1: Why are we revisiting the Wymond Road access project which to my mind is a waste of Ratepayer funds? The project was studied in-depth and the Wymond Road access was rejected as unfeasible in 2019 (M/551/T).

Response: The Chair advised it has been raised again by Cr Mosey who, as a new Councillor has a different thought on the subject, hence why we are discussing tonight.

Q2: Is there provision in the proposed feasibility study that Cr Mosey has put forward for environmental impact assessment on the project?

Response: The Chair advised that Cr Mosey is suggesting that this is a project to be looked into for funds to be allocated in order to review if we can make the project “Shovel Ready” for a possible future construction project.

Wymond Road Project, Roleystone

Mr Jim Goodwin – 85 Wymond Road, Roleystone

Q1: Similar to Sarah Stoneham’s question, my question is revisiting the exercise after 2019, what advantage could possibly be had from that in respect to cost and outcome?

Q2: What would we do on the impact on native animals, impact on traffic flow to Wymond Road, in particular the junction at Wymond Road and Soldiers Road is extremely dangerous already. This needs to be reviewed with the traffic study. This would apply further pressure on the current Soldiers Road and Brookton Highway intersection. Cost and value to ratepayers after considerable discussion over the decades, why would we begin to entertain the proposal.

Response: The Chair advised that Soldiers Road has the potential to be problematic and this is something that the Design Team would need to assess and consider if the project was to go ahead. Native animals are likely to be impacted when upgrading a rural road to a road that will accommodate approximately 30,000 cars. This topic would be investigated if Council decided to proceed with the Wymond Road proposal as part of the Design process.

Q3: Is it not good money after bad to be spending \$200,000 of ratepayers funds?

Response: The Chair advised that he could not answer that question at this time and will be further discussed/decided at Monday's Council meeting.

Wymond Road Project, Roleystone

Ms Brigitte Colbert (speaking for Parents – Bernard & Catherine Colbert)– 30 Wymond Road, Roleystone

Q1: What expectation is there that new traffic increases will be at levels projected at that 35,000 number, when we know that GPS will show Wymond Road as the shortest route for visitors and Araluen residents? We know that historically when people used to illegally drive that road that the increase in traffic was very dangerous, especially for local residents.

Response: The Executive Director Technical Services advised that it is very early in the Design process. A survey informed this process in 2019.

Manager Design advised that the traffic count data is provided from Mains Roads studies. The City also carried out traffic counter installations and the 30,000 referred to is the estimated annual traffic, not daily. Estimated daily traffic is around 70 cars.

Q2: How can concerns around accidents with downhill speed from the club to Soldiers Road and local fauna be addressed?

Response: The Chair advised that Design cannot eliminate this situation as safety ultimately comes down to people not doing the right thing. This will be discussed further and all points will be considered in the detailed design phase of the project if the project proceeds.

Q3: How does this change/improve or positively impact what we already have, without impacting what Wymond Road is regarding Safety for local residents that walk on foot along that road very often?

Response: The Chair advised that these are all questions that will be considered if the project progresses.

Wymond Road Project, Roleystone

Mr Dean Adams – 94 Wymond Road, Roleystone

Q1: There is no mention of the heavy traffic coming out of Soldiers Road and Brookton Highway. Brookton Highway and Soldiers Road and Peet Road directly opposite are dangerous intersections now with no turning lanes and grain trucks using these. Cars need to stop in stop in middle of traffic, turn left and then right with no turning lanes. There will be fatalities.

Response: The Chair advised that this is something that would be considered through the Design Stage. No discussions as yet have been undertaken with Main Roads. This is still an early stage of the design process and it would all be investigated if the project proceeds.

Wymond Road Project, Roleystone

Mr Jim Goodwin– 85 Wymond Road, Roleystone

Q4: Relative to the Araluen Estate what happened to the arrangements that there was going to be a road/extension of the Old Albany Lane, which I believe was not going to cost ratepayers as was supposed to be part of the original development proposal, what happened with that?

Response: The CEO advised if Araluen has any further development, the planning policies have now changed and they must construct a second access. There has been a subdivision proposal for the area near Armenti Road in 2014 (which has now lapsed) but if they went ahead with that sub-division then it would be mandated by the new planning policies to have to put in a second access and that would most likely be Armenti Road.

Wymond Road Project, Roleystone

Ms Sarah Stoneham – 31 Wymond Road, Roleystone

Q3: If there is a proposal in place at the moment for Armenti Road to be developed, which would necessitate a second exit to be put in, then would it not be better to wait and see if that proposal went ahead and then the second exit by default will be created and we won't have to bother with Wymond Road in the first place?

Response: The Chair advised that yes that is correct a second access would be provided and additionally it would be funded by the Estate as well.

MOVED by Cr E Flynn

That public question time be extended

MOTION CARRIED (6/0)

7.17pm

Wymond Road Project, Roleystone

Mr Dean Adams – 94 Wymond Road, Roleystone

Q2: Old Albany Lane to Thompson Road that is a 400m in a straight line, it is already a designated road that is owned by Council or Government owns the land. There are no services that need to be removed unlike Wymond Road and there are no residents on Thompson Road what so ever. This seems to be a massive cost blowout for Wymond Road when you have such a short piece of road that will take care of any problems and the shortcut that everyone seems to want from Araluen, because that is all it is, a short cut to the shops.

Response: The Chair advised the bridge would have to be completely replaced as it currently is not up to standards and in addition where it comes up to Brookton Highway is probably worse than when you come out of Soldiers Road so you would also need to do something there. This would need a discussion with Main Roads.

Question time declared closed at 07.19pm

DEPUTATION

Nil

CONFIRMATION OF MINUTES

RECOMMEND

Minutes of the Technical Services Committee Meeting held on 5 December 2022 be confirmed.

Moved Cr R Butterfield

MOTION CARRIED

(6/0)

ITEMS REFERRED FROM INFORMATION BULLETIN

Outstanding Matters and Information Items

Various Items

Monthly Departmental Reports

Technical Services Works Programme

No items were raised for report or further investigation.

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TECHNICAL SERVICES COMMITTEE

6 FEBRUARY 2023

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***1.1 - BARBEQUE FACILITY – WHITELEY PARK AND CONNECTING FOOTPATH
(COUNCILLOR REFERRAL ITEM)***

At the Council meeting held on 24 October 2022, Cr S. Peter referred the following matter to the Technical Services Committee

That the matter of Barbeque Facility – Whiteley Park and Connecting Footpath be referred to the Technical Services Committee.

Comment from Cr S.Peter

That the matter of a report on a barbeque facility at Whiteley Park, Hilbert and connecting footpath between Whiteley Park and Minnie Grove is located near Whiteley Park. Many residents use this facility daily as part of their healthy lifestyle. There is a missing linkage between Mangrove and Whiteley Park, and the linking footpath length is less than 10 meters. I request a report on the possibility of adding the footpath to the 2023 FY budget be referred to the Technical Services Committee.

Cr Peters' further comments on the rationale for such an investigation have been forwarded under separate cover

Officer Comment

In regard to the BBQ facility request, as per the Parks Facilities Strategy, this parkland is classified as a Local Nature Park due to its drainage function. The park design as planned and in its existing form is constrained by an extensive 1:5 year flood zone which limits space for facilities/infrastructure such as playgrounds and drink fountains or BBQs.

Within the City, BBQs are generally located in nodes in support of recreational infrastructure such as playgrounds, where people are encouraged to stay longer.

The City's approach to Parks facilities would not usually support a BBQ within this location, however as the wider area is in its development phase, a BBQ could be considered within the nearby estates with more suitable parklands. As such, the Parks Development team, within Technical Services' Design Team will endeavour under the subdivision approval process to ensure a BBQ is considered in an appropriate alternate location, during the parkland design phase for future parks in the area.

In the broader community currently there are BBQ areas and excellent picnic facilities at Don Simmons Reserve in the South Eastern suburb of Brookdale and in Shipwreck Park to the North West approximately 736m and 1400m away from Whiteley Park. These two parks are considered easily walkable or a short drive from the Whiteley Park area.

Regarding the pathway request, the development of the southern side of the Minnie Grove parkland is partially funded under the DWA Developer Contribution scheme. The Officers' current understanding is that a new footpath may be located along the southern side of Minnie Grove Parkland which would provide a continuous connection and negate the need for the suggested 10m footpath raised in the item. The City is preparing a pre-funding proposal for the works to DWA under the Wungong DCP.



Figure 1: Minnie Grove Parkland. Pink potential path – subject to funding.

ATTACHMENTS

There are no attachments for this report.

Suggested Recommendation

It is recommended that Council note the officers' comments on the matter.

Committee Discussion

Committee discussed this item at length including the need for toilet facilities which would be a requirement for areas where a BBQ facility is installed as per the current Parks Facilities Strategy.

Cr Peter put the following motion:

That Council

Include in the draft FY24 capital budget schedules the following new project, for further consideration by the Technical Services Committee and Council:

- A BBQ facility near Whitley Park, Hilbert

OPPOSED Cr Flynn

MOTION LAPSED FOR WANT OF A SECONDER

T1/2/23

RECOMMEND

That Council:

Request that Officers advise of the nearest neighbourhood open space that would accommodate a BBQ facility as part of the future planning of the immediate area.

**Moved Cr R Butterfield
MOTION CARRIED**

(6/0)

1.2 - WYMOND ROAD PROJECT, ROLEYSTONE (COUNCILLOR REFERRAL ITEM)

At the Council meeting held on 14th November 2022, Cr S. J. Mosey referred the following matter to Technical Services Committee.

That the matter of Wymond Road, Roleystone is a shovel ready project for future grant funding, be referred to the Technical Services Committee.

Comment from Cr S.J.Mosey

In order to ensure that Wymond Road Roleystone, (inclusive of the intersection with Soldiers Road), is a shovel ready project for future grant funding applications or inclusion in the four year budget. That the matter of a report on the estimated costs of land acquisition and service relocation by January 2023 be referred to the Technical Services Committee. This is to allow for consideration of these pre-requisite works in either the mid-year review or allocation of the FY22 surplus

Cr S. J. Mosey's further comments on the rationale for such an investigation have been forwarded under separate cover

Officer Comment

Wymond Road is one of three fire evacuation routes for the Araluen Estate.

A significant upgrade and investment in this 1.4km road would be required to meet current standards and enable safe passage for an increase in the volume of traffic, noting there would likely be opposition from existing residents along Wymond Road.

The upgrade requires the development of a wider road with improved horizontal geometry. In effect, the objective of the upgrade would be to convert a narrow rural road into a 7.4m wide road for improved and safer traffic capacity to cater for increased volumes of up to 32,000 to 35,000 vehicles per annum. This range is based on the traffic assessment carried out in 2019 and is considered appropriate to cater for traffic from the residents of the Roleystone area, guests at the golf course or at functions at Araluen Country Club or Botanical Park.

The Technical Service's Design Department has developed a concept design and an initial estimate for the proposed Wymond Road upgrade. The initial estimate includes an allowance for the upgrade of Old Albany Lane which was not identified previously for the project but has to be considered for inclusion in the upgrade because the traffic entering and exiting through Wymond Road will have to pass through Old Albany Lane which would also need to be constructed to current standards.

The cost estimate to complete the further design and investigations, as well as prepare for land clearing permits to facilitate a grant application, is \$175,000.

If approved by Council, it is likely that these activities would be performed in FY23-24.

In order to deliver both the Wymond Road and Old Albany Lane upgrades, it is estimated \$8.1 million would be required for the following:

- Detailed design by an external consultant
- Land acquisition
- Service relocations
- Road construction.

For information, the road construction costs split between Wymond Road and Old Albany Lane equates to approximately \$6.4 million and \$1.6 million respectively, with an estimate accuracy of +/-25% in FY23 AUD. Note, there has been no interagency input to determine this estimate and as such service relocation estimates may differ by greater than +/-25%.

The difficulty with current road grants that the City applies for, through bodies such as Main Roads WA, is that the criteria for assessment mean that a project such as Wymond Road would not rate very highly making it difficult to obtain grant funding.

The City recognised this issue and resolved on 23 August 2021 to request, through WALGA, that the State Government provide specific funding for the construction of secondary road access for developments constructed in bush fire prone areas prior to the gazettal of Western Australian Planning Commission's State Planning Policy (SPP 3.7) Planning for Bushfire Prone Areas and Guidelines.

The City, like other local governments throughout the Perth Hills and beyond, has a number of historic subdivisions without a dedicated secondary access.

The City's motion was considered by the South East Metropolitan WALGA Zone in November 2021 and was passed unanimously. The motion was then referred to the WALGA People and Place Policy Team and the President of WALGA subsequently wrote to the Minister's for Planning and Emergency Management on this matter.

The Ministers advised that the Department of Planning, Lands and Heritage (DPLH), has undertaken a desktop assessment of one-way access routes within the Perth, Peel and Bunbury region scheme areas. The study focused on developed bushfire prone areas and identified no-through roads that may pose limitations to evacuation or fire suppression practices in a bushfire event. Additional resources have recently been provided to DPLH to assist in progressing this work to the next stage. DPLH will undertake a more detailed case study, working with a local government authority to assess the potential for extension/connection of one-way roads in greater detail and identify potential barriers and solutions.

The City has also provided this information to the Member for Darling Range with an invitation to discuss this proposal and obtain his support for progressing the establishment of a grant program to progressively address these matters.

OPTIONS

Option 1

Continue to advocate through WALGA, and in collaboration with other affected local governments, for the establishment of a fund for the construction of secondary access ways for developments constructed in bush fire prone areas prior to the gazettal of Western Australian Planning Commission's State Planning Policy (SPP 3.7) Planning for Bushfire Prone Areas and Guidelines.

Option 2

Refer for consideration in the FY24 budget an allocation of \$175,000 for further design and investigations for Wymond Road and Old Albany Lane, including engagement with service agencies regarding the cost of service relocations.

Option 3

Do nothing.

ATTACHMENTS

There are no attachments for this report.

RECOMMEND

T2/2/23

That Council:

Continue to advocate through WALGA, and in collaboration with other affected local governments, for the establishment of a fund for the construction of secondary access ways for developments constructed in bush fire prone areas prior to the gazettal of Western Australian Planning Commission's State Planning Policy (SPP 3.7) Planning for Bushfire Prone Areas and Guidelines.

**Moved Cr G Nixon
MOTION CARRIED**

(6/0)

1.3 - SAFETY AT ASPIRI OVAL - (COUNCILLOR REFERRAL ITEM)

At the Council meeting held on 10 October 2022, Cr S.S.Virk referred the following matter to Technical Services.

That the matter of Safety at Aspiri Oval be referred to the Technical Services Department.

Comment from Cr S.S.Virk

There is concern regarding a fence not being installed in front of the kid's play area. A few incidents have occurred where children have gone on to the road.

Options to install a fence with gates.

Officer Comment

Cr. Virk's request relates to the outdoor fitness equipment adjacent to Rossiter Avenue, as opposed to the children's play area adjacent to Sunray Avenue.

An onsite inspection has been undertaken by Council Officers, regarding the request for fencing and gates to the Rossiter Playing Field outdoor fitness equipment, due to the proximity to the adjacent local road.

The following is noted in response to the referral item.

In response to:

The distance from the outdoor fitness equipment to the active roadway is approximately six (6) meters. The outdoor fitness equipment is currently separated from the road by a low fence, roadside pathway and also roadside car parking bays. Entry to the fitness equipment area is funneled through two pathways with bollards (refer to images one and two).

The style of access way is repeated around the exterior of this parkland to enable pedestrian access to the oval. To date, no other complaints have been registered with the City either via CRM or email noting that this is a particular safety concern.

The City details user guides for its outdoor fitness equipment on its website (refer to Attachment 1) – for the area in question, the guide has a close out statement as detailed below.

“The City of Armadale accepts no responsibility, as far as permitted by law, for any loss, damage, accidents, injuries or deaths to any property or person that may occur as a result of participation in this workout. Participants are responsible for maintaining their own safety and welfare (or that of children under their supervision or control) at all times.”

This advice is also repeated on signs placed on each of the existing individual outdoor fitness equipment at this location.

OPTIONS

Option 1

Install pedestrian access gates to both pathways and extend fencing as required.

Option 2

Remove bollards and install staggered pedestrian hoops to slow children down on entry to the road.

Option 3

Leave the status quo and not make any changes.

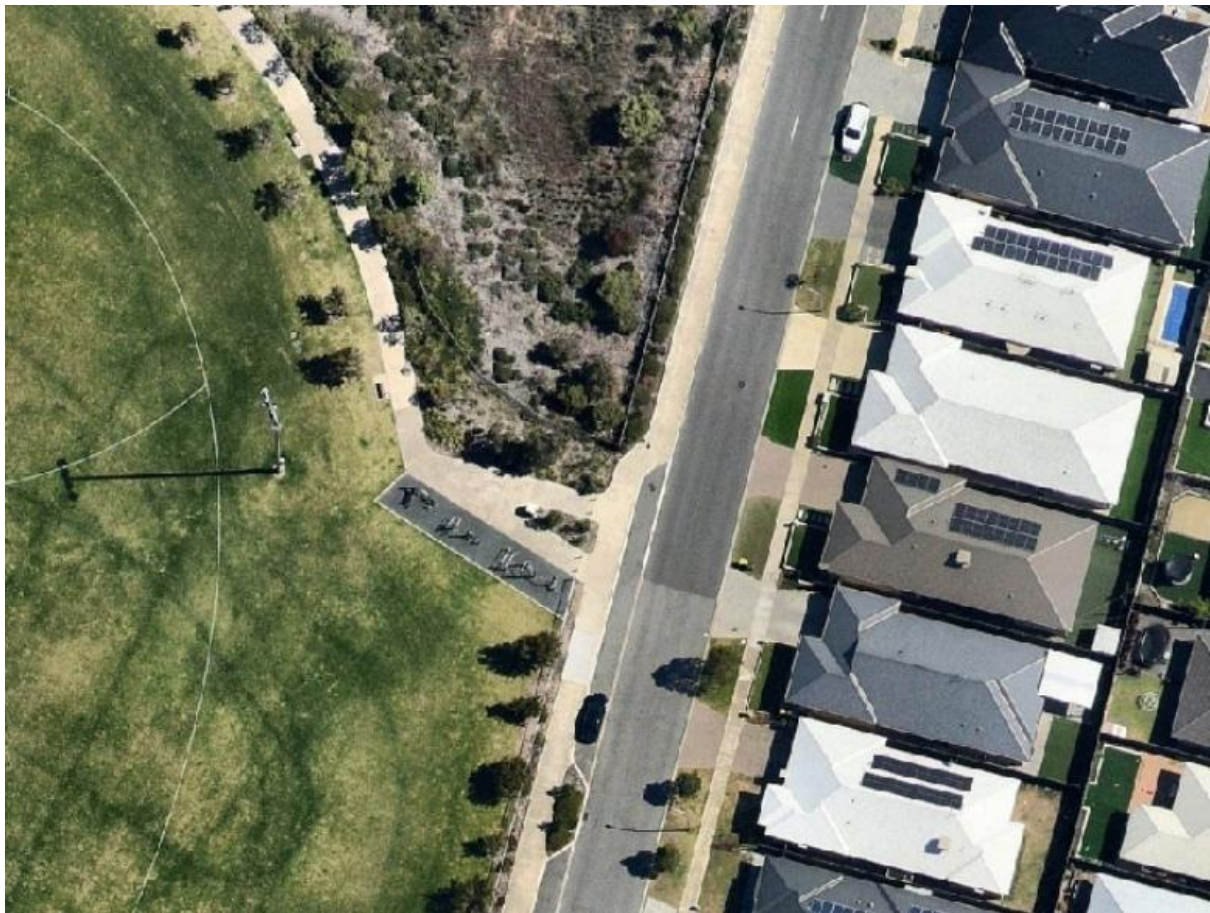


Image 1 – Location of fitness equipment



Image 2 – Street view

Suggested Recommendation

It is recommended that Council note the officers' comments on the matter, and consider Option Three (3) as the preferred approach

ATTACHMENTS

1. Piara Waters Rossiter Playing Field

RECOMMEND

T3/2/23

That Council:

Leave the status quo and not make any changes.

**Moved Cr E J Flynn
MOTION CARRIED**

(6/0)

COUNCILLORS' ITEMS

Nil

EXECUTIVE DIRECTOR TECHNICAL SERVICES REPORT

Nil

MEETING DECLARED CLOSED AT 07.54pm

TECHNICAL SERVICES COMMITTEE		
SUMMARY OF ATTACHMENTS		
6 FEBRUARY 2023		
ATT NO.	SUBJECT	
1.3 SAFETY AT ASPIRI OVAL - (COUNCILLOR REFERRAL ITEM)		
1.3.1	Piara Waters Rossiter Playing Field	

The above attachments can be accessed from the Minutes of the Technical Services Committee meeting of 6 February available on the City's website

CITY OF ARMADALE

MINUTES

OF COMMUNITY SERVICES COMMITTEE HELD IN THE FUNCTION ROOM,
ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON TUESDAY, 7
FEBRUARY 2023 AT 7:00PM.

PRESENT: Cr M Silver (Chair)
Cr M S Northcott (Deputy Chair)
Cr K Busby
Cr E J Flynn
Cr K Kamdar
Cr R Butterfield (Mayor) (Deputy for Cr Keogh)
Cr G Nixon (Deputy for Cr Mosey)

APOLOGIES: Cr J Keogh (Leave of Absence)
Cr S J Mosey (Leave of Absence)

OBSERVERS: Cr G J Smith

IN ATTENDANCE: Ms J Abbiss Chief Executive Officer
Mrs S van Aswegen Executive Director Community Services
Ms J Cranston Executive Assistant Community Services
Mr J Lyon Executive Director Corporate Services
(via Teams)
Ms R Milnes Manager Community Development
Mr C Halpin Manager Recreation Services
Mr R Porter Manager Ranger & Emergency Services
Mr D Baker Senior Governance Officer (via Teams)

PUBLIC: 3

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– [www.armadale.wa.gov.au/your council/councillors](http://www.armadale.wa.gov.au/your_council/councillors).”*

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DECLARATION OF MEMBERS' INTERESTS

Nil

QUESTION TIME

Public question time was opened at 7.02pm.

1. Shane and Mandy Oliver - 3113 Albany Highway, Armadale

- Q. 1. Why can't we have a clear law that states how many cats can be owned by residences? We need to have clear concise numbers.

We are continually having to clean droppings from our yard and back doors that have been sprayed. Why do we have to put up with the smell and odour from her yard?

Mr and Mrs Oliver wanted to ensure that the committee is aware of the issues that are being faced by the public and wanted to voice their opinion on the cat laws and the situation they are facing with the laws as they are at the present time.

- R. The Chair thanked Mandy Oliver for sharing their experience and advised that the Committee will take this information on board.

2. Lesley Brown - 3 Galliers Avenue, Armadale

- Q. 1. Ms Brown spoke about living next door to a cat hoarder. The situation has affected her mentally, she cannot open up her doors because of the smell. Rangers have tested the soil in her property and found it to be toxic and her whole roof and gutters are full of cat faeces of which she has photos. The cat owner needs to be held accountable and pay for her roof to be cleaned.

The cats are not healthy and are very unwell. There are also two dogs which are allowed to bark a lot as well. Ms Brown is fed up with putting in complaints to the Shire, the Health Department and the Rangers and she has also written to several Local Members of Parliament for which she has only received a standard reply.

Ms Brown's water bill is up as she has to water her yard every day to dilute the smell of wee and pool. She is unable to open her windows so can only have her air conditioning to a certain level because doors and windows need to be open for it to work. She cannot grow anything in her garden as the soil is too toxic and her grandchildren cannot play in the backyard.

Two cats is legally enough for anyone to have and they should be kept behind a cat run as well. Ten years have been spent fighting this and they have gotten nowhere.

R. The Chair advised that Ms Brown's comments would be taken on board.

Public question time was declared closed at 7.08pm.

DEPUTATION

Nil

CONFIRMATION OF MINUTES

RECOMMEND

Minutes of the Community Services Committee Meeting held on 6 December 2022 be confirmed.

**Moved Cr E J Flynn
MOTION CARRIED**

(7/0)

ITEMS REFERRED FROM INFORMATION BULLETIN

Report on Outstanding Matters – Community Services Committee

Items referred from the Information Bulletin – Issue 20 – December 2022

None of the items from the Community Services Information Bulletin required clarification or a report for a decision of Council.

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COMMUNITY SERVICES COMMITTEE

7 FEBRUARY 2023

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***1.1 - NEW DRAFT POLICY: ENGAGEMENT AND CONSULTATION WITH THE
ABORIGINAL ELDERS AND COMMUNITY MEMBERS***

WARD : ALL
FILE No. : M/2/23
DATE : 4 January 2023
REF : RM
RESPONSIBLE : Executive Director
MANAGER : Community Services

In Brief:

- This report presents the new draft Policy: *Engagement and Consultation with the Aboriginal Elders and Community Members*.
- Recommend that Council:
Endorse the new draft Policy: *Engagement and Consultation with the Aboriginal Elders and Community Members*

Tabled Items

Nil

Decision Type

- ☒ **Legislative** The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc.
- ☐ **Executive** The decision relates to the direction setting and oversight role of Council.
- ☐ **Quasi-judicial** The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.

Officer Interest Declaration

Nil

Strategic Implications

Strategic Community Plan

Community

1.4 An Inclusive and Engaged Community

1.4.3 Ensure the provision of culturally appropriate services and programs in the City

1.4.4 Facilitate the provision of facilities, services and programs to meet the needs of the City's current and future demographics

4.1 Strategic Leadership and Effective Management

4.1.5 Establish comprehensive governance policies and processes

Legal Implications

Local Government Act 1995:

s2.7 – The role of the Council – “(2) (b) determine the local government’s policies”

Council Policy/Local Law Implications

This Policy: *Engagement and Consultation with the Aboriginal Elders and Community Members* will be added to the City’s Policy Manual as a new policy.

Budget/Financial Implications

A key element of the new draft Policy: *Engagement and Consultation with the Aboriginal Elders and Community Members* comprises the specific remuneration amount to Aboriginal Elders and community members of \$75 per hour for complex consultations. This amount is based on the Noongar Standard Heritage Agreement cited on the Department of Planning, Lands and Heritage website, which as of August 2022, is \$589 per day.

Consultation

1. Standing Order House Advisory Group (SOHAG)
2. Executive Leadership Team (ELT)
3. Community Services Directorate
4. Governance and Administration

BACKGROUND

Council policies are an essential part of Council’s governance framework. They guide Council and Officers in the context of Council’s decision making. Policies can be developed to respond to legislative requirements, discretionary legislated powers and/or non-legislated functions/activities of Council.

The objective of the new draft Policy: *Engagement and Consultation with the Aboriginal Elders and Community Members* is ‘to define how the City of Armadale engages with local Aboriginal Elders and other community members for the purpose of seeking their advice and expertise on a range of issues and topics.’

On 22 June 2020, Council adopted a schedule (CS26/6/20) of SOHAG meetings as part of the process of a comprehensive review of Council’s policies and delegations. The new draft Policy: *Engagement and Consultation with the Aboriginal Elders and Community Members* has been considered by SOHAG as a prerequisite to its presentation to Council.

DETAILS OF PROPOSAL

It is proposed that Council adopt the new draft Policy: *Engagement and Consultation with the Aboriginal Elders and Community Members*. This draft policy has a focus on how the City engages with and provides appropriate remuneration to Aboriginal Elders and community members for cultural knowledge and expertise.

The policy provides definitions and terms relating to the Aboriginal community, the context of the City’s connection with the local Aboriginal community and a brief history of the Noongar people.

It explains the terms of engagement and specifically defines these in relation to Aboriginal people and provides guidance to both City Officers and external organisations as to how to engage with the local Aboriginal community. This includes the process of consulting with the Elders Reference Group and remuneration for formal consultation processes.

ANALYSIS

The adoption of the draft new Policy: *Engagement and Consultation with the Aboriginal Elders and Community Members* formalises the City's commitment to continue to authentically engage with the local Aboriginal community.

This is particularly pertinent given that the City will be seeking guidance from the Aboriginal Elders and community members on proposed actions during the development of the City's first Reconciliation Action Plan.

OPTIONS

Council has the following options:

1. Endorse the draft new Policy: *Engagement and Consultation with the Aboriginal Elders and Community Members*
2. Do not endorse the draft new Policy: *Engagement and Consultation with the Aboriginal Elders and Community Members*

Option 1 is recommended.

CONCLUSION

The draft new Policy: *Engagement and Consultation with the Aboriginal Elders and Community Members* formalises the City's existing engagement approach with the local Aboriginal community, including the Aboriginal Elders. Having a policy in place to guide Officers is particularly pertinent in the context of the City developing its first Reconciliation Action Plan.

ATTACHMENTS

1. Draft Policy - Engagement with Aboriginal Elders

RECOMMEND

C1/2/23

That Council endorse the draft new Policy: *Engagement and Consultation with the Aboriginal Elders and Community Members*.

Moved Cr M S Northcott
MOTION CARRIED

(7/0)

***2.1 - CONFERENCE ATTENDANCE - NATIONAL SPORTS AND PHYSICAL
ACTIVITY CONVENTION IN JULY 2023***

WARD : ALL
FILE No. : M/9/23
DATE : 13 January 2023
REF : JC/CH
RESPONSIBLE : Executive Director
MANAGER : Community Services

In Brief:

- The National Sports and Physical Activity Convention is to be held in Melbourne on 27-28 July 2023.
- A link to the full program for the conference is included in this report.
- This report seeks nominations for Councillor attendance as a delegate to the National Sports and Physical Activity Convention 2023.

Tabled Items

Nil

Decision Type

- ☐ **Legislative** The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc.
- ☒ **Executive** The decision relates to the direction setting and oversight role of Council.
- ☐ **Quasi-judicial** The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.

Officer Interest Declaration

Nil

Strategic Implications

- 4.1 Visionary Civic leadership and sound governance
- 4.1.3 Support the role of the elected body
- 4.1.3.2 Facilitate appropriate training and development opportunities for Councillors

Legal Implications

General assessment of relevant legislation (e.g. Local Government Act) has not revealed any restrictions.

Council Policy/Local Law Implications

- Council Policy ADM3 – Conferences and Training
- Council Policy EM1 – Reimbursement of Councillor's Expenses

Budget/Financial Implications

Allowances for Councillor and Officer attendance at conferences have been made within the 2022/23 Budget and Long Term Financial Plan estimates.

Consultation

- Intra Directorate

BACKGROUND

The National Sports and Physical Activity Convention is the peak conference for the Sport and Recreation industry in Australia and will be held in Melbourne in July 2023. The conference is attended by Local Government Managers, State and National Sporting executives and other industry related professionals. The conference seeks to provide a program designed to stimulate and challenge industry professionals.

Nominations for Councillor attendance are requested at this Community Services Committee Meeting, to be presented to the February 13 2023 Ordinary Council Meeting, in order to facilitate timely registrations.

DETAILS OF PROPOSAL

The theme of the 2023 conference is Connecting Innovation and Sustainability for Future Generations. Sport and Recreation facilities across all sectors continue to face a range of funding uncertainties, changing participation patterns, non-traditional community expectations and fundamental changes in usage patterns. The theme reflects key topics which underpin the increased need for sporting bodies, Government at all levels and design experts to continue to evolve and meet the changing demands and demographics of leisure. The conference program can be found here <https://nationalsportsconvention.com.au/program/>

COMMENT

The conference theme resonates strongly with the City's Recreation department as it seeks to maximise utilisation across the various facilities and suburbs with the City of Armadale. This includes minimising barriers to facility use, partnering with under-represented user groups to ensure sport/leisure meet the needs of existing and emerging users, and ensuring that the City's leisure facilities and their services are accessible and inclusive, reflecting the communities they serve.

The conference streams include:

- Community Sport and Leisure Facilities
- Growing Participation – From Exercise to Recreation to Community Sport
- Active Cities – Planning for more Active Environments and Communities
- Nurturing Curious and Confident Children in Local Environments
- Sustainable and Innovative Sports Grounds
- The Future of Sport

Each of these topics is an area being actively explored by the City's Recreation department. In addition to the formal program, the conference also provides the opportunity to interact with colleagues from various sectors across the country and discuss cross-sector solutions to the challenges facing the profession.

Attendance costs including travel and accommodation amount to approximately \$3,600.

The Manager Recreation Services will be attending as a delegate to the 2023 National Sports and Physical Activity Convention.

CONCLUSION

The National Sports and Physical Activity Convention 2023 offers a program of interest to the recreation sector, including Local Government. The conference brings together recreation professionals from across Australia to share best practice, innovation, and discuss industry trends.

Attendance at the conference is considered beneficial as the City of Armadale faces new challenges of increased and diversified demand, challenges in planning new facilities, and ensuring our leisure facilities are both sustainable and utilized within the community.

ATTACHMENTS

There are no attachments for this report.

RECOMMEND

C2/2/23

That Council:

1. Nominate Councillor **K Kamdar and Councillor M Silver** as delegates to the 2023 National Sports and Physical Activity Convention.

OR

~~Should no nomination be received, then the recommendation is as follows:~~

~~Make no nomination for Councillor attendance at the 2023 National Sports and Physical Activity Convention.~~

Moved Cr G Nixon
MOTION CARRIED

(7/0)

3.1 - PROPOSED CAT LOCAL LAW

WARD : ALL

FILE No. : M/266/22

DATE : 20 May 2022

REF : DB/RP

RESPONSIBLE : Executive Director
MANAGER : Community Services

In Brief:

- A draft Cat Local Law has been prepared.
- The local law will encourage responsible cat ownership and an efficient regulatory scheme to deal with nuisance cats and cats in environmentally sensitive areas.
- Recommend that Council endorse a draft Cat Local Law and approve its advertising in accordance with the *Local Government Act 1995*.

Tabled Items

Draft Cat Local Law 2022

Decision Type

- ☒ **Legislative** The decision relates to general local government legislative functions such as adopting/changing local laws, town planning schemes, rates exemptions, City policies and delegations etc.
- ☐ **Executive** The decision relates to the direction setting and oversight role of Council.
- ☐ **Quasi-judicial** The decision directly affects a person's rights or interests and requires Councillors at the time of making the decision to adhere to the principles of natural justice.

Officer Interest Declaration

Nil

Strategic Implications

Nil

Legal Implications

- *Cat Act 2011*, s. 79 – local laws
- *Local Government Act 1995*, s. 3.12 – procedure for making local laws.

Council Policy/Local Law Implications

Nil

Budget/Financial Implications

Development, advertising and Gazettal of a new local law will consume resources from the City's Governance budget.

There is potential that, in the event the draft Cat Local Law is made, additional resources may be required by Ranger Services to adequately enforce the local law.

Consultation

1. City Governance (internal)
2. Environmental Services (internal)
3. Referencing of other cat local laws
4. Standing Orders and House Advisory Group (SOHAG) (internal)
5. Department of Local Government, Sport and Cultural Industries

BACKGROUND

The City had previously attempted to make a local law relating to cat control in 2015. Following public consultation and consideration of the issues raised in submissions from the public, Council resolved on 16 November 2015 to not adopt the local law, instead preferring to re-instate a prohibited cat area in the Churchman's Brook locality in the Environment, Animals and Nuisance Local Law.

Ultimately, Council resolved at a later date (23 January 2017) to not amend the Environment, Animals and Nuisance Local Law to include the prohibited cat area.

The prospect of revisiting a local law for cat control was raised by the Armadale Bushcare Environment Working Group in November 2020. Following this, the City's Ranger and Emergency Services department and the Governance department conducted research of contemporary local laws relating to cat control at other local governments, together with recent reviews conducted by the Joint Standing Committee for Delegated Legislation. This research has taken shape in the form of the draft local law that is presented.

DETAILS OF PROPOSAL

A draft Cat Local Law for the City has been prepared.

The draft Local Law is framed around the principle of nuisance as an enforcement tool. That is, where there is a cat causing a nuisance, there is an enforcement mechanism to require the owner or custodian of the nuisance cat to take appropriate measures to abate the nuisance. The Joint Standing Committee for Delegated Legislation (JSC) has provided direction to local governments that the common law definition of nuisance is to be used in any cat local law where nuisance is the primary enforcement mechanism:

“nuisance means —

- (a) an activity or condition which is harmful or annoying and which gives rise to legal liability in the tort of public or private nuisance at law;*
- (b) an unreasonable interference with the use and enjoyment of a person of his or her ownership or occupation of land;*
- (c) interference which causes material damage to land or other property on the land affected by the interference;”*

The draft Local Law also introduces cat prohibited areas. These cat prohibited areas are detailed in Schedule 3 of the draft local law and were included following consultation with the City's Environmental Services department and SOHAG.

Officers also proposed in the draft Local Law presented to SOHAG that the City places a limit on the numbers of cats that may be ordinarily kept at a property (Attachment 3 – original version). This would require a person who wishes to keep three or more cats to obtain a permit from the City in accordance with the provisions of the draft Local Law. SOHAG strongly opposed the inclusion of a restriction on the number of cats or a permit system. These provisions have been removed from the draft in Attachment 2 – SOHAG version. Attachment 5 shows the original version with the sections removed in the SOHAG version highlighted in yellow.

The Cat Act 2011

Section 79(3) of the *Cat Act 2011* (Cat Act) allows a local government to make a local law for the control of cats that can deal with the following matters:

“3) Without limiting subsection (1), a local law may be made as to one or more of the following —

- (a) the registration of cats;*
- (b) removing and impounding cats;*
- (c) keeping, transferring and disposing of cats kept at cat management facilities;*
- (d) the humane destruction of cats;*
- (e) cats creating a nuisance;*
- (f) specifying places where cats are prohibited absolutely;*
- (g) requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats;*
- (h) limiting the number of cats that may be kept at premises, or premises of a particular type;*
- (i) the establishment, maintenance, licensing, regulation, construction, use, record keeping and inspection of cat management facilities;*
- (j) the regulation of approved cat breeders, including record keeping and inspection;*
- (k) fees and charges payable in respect of any matter under this Act.”*

The JSC has examined a number of cat local laws over the preceding 2-3 years and have identified a range of issues with those where local governments have sought to create their own definitions outside of the common law definition (e.g. nuisance), or prescribe matters that are not provided for in the Cat Act (such as confinement).

A number of local governments (specifically, the City of Fremantle, the City of Gosnells, the Shire of Denmark) have expressed concern that the Cat Act limits the ability of local governments to make a local law that will effectively address issues that pertain to local circumstances. It would appear that this is a view that has been partially driven by some local governments desire to implement cat confinement provisions.

Recent examples that have attracted media interest, such as the City of Fremantle's, have sought to introduce provisions that ban cats from wandering on all public places and local government property, including roads, verges, footpaths and car parks.

Based upon previous reviews conducted by the JSC, it is expected that cat local laws with these types of provisions will be disallowed (e.g. Town of Bassendean Cats Local Law 2021, City of Gosnells Cat Amendment Local Law 2022).

It is expected that, because the Cat Act is silent on the subject of cat containment, the JSC has formed the view that it is not appropriate for a local government to make a local law with such a provision, particularly against the backdrop of those matters for which a cat control local law **can** be made in accordance with s. 79(3) of the Cat Act.

ANALYSIS OF ISSUES

Current Arrangement

The City's *status quo* is that with no cat local law, the City has limited means to deal with cat control matters outside what is prescribed by the Cat Act and the *Cat (Uniform Local Provisions) Regulations 2013*. This is problematic for the City when dealing with resident complaints, particularly those concerning nuisance cats. It also means that the City cannot create cat prohibited areas, such as reserves and other areas rich in native fauna.

The following table shows the number of Customer Service Requests (CRM's) that have been received by the City's Ranger and Emergency Services department since the introduction of the Cat Act in 2013.

Category Type	Requests Received
Dead Cats	383
General Enquires	328
Found Cat	270
Keeping of Cats	879
Lost Cat	314
Cat Pickup	1922
Cat Trap Pick up/Drop off	470
Microchip follow up	86
Total: 4,652	

From the table above, aside from cat pickups (41%), the next most significant volume of CRM requests (19%) received relate to the keeping of cats, in particular issues relating to cat nuisance and excessive number of cats being kept on a property.

Numbers of Cats

One of the dominant issues raised in public submissions for the previous draft cat local law in 2015, and then raised by SOHAG from its review of the current draft local law, is the concept of placing a limitation on numbers of cats that may be kept.

The schedule of public submissions received during the 2015 consultation process (without personal information) is provided at Attachment 1 so that Council may understand the sentiment at the time in respect of the 'for and against' arguments for restricting cat numbers.

The concern articulated by SOHAG, and in the historical submissions, was that a limit on the numbers of cats that may be kept as proposed in the original draft Cat Local Law presented by Officers to SOHAG, would unfairly penalise responsible cat owners who own multiple cats and contain their cats within a cat run or inside a dwelling.

Officers had attempted to address this concern through recommending a permit system be included in the draft local law which would allow a degree of discretion in how a limitation on numbers of cats is applied.

Nevertheless, the overall tone of the historical submissions (those that opposed the local law) and SOHAG's recommended changes to the draft local law, question the level of community support for a local law that contains a limit on numbers of cats that may be kept.

It must be noted that approval to breed cats would still be a requirement under Part 3, Division 4, Subdivision 2 of the Cat Act.

When considering any provisions about limiting numbers of cats to be kept without a permit, SOHAG expressed the view that the draft local law, without the provisions that relate to permits and limiting ownership numbers, was still able to be utilised as an enforcement tool as the primary enforcement mechanism is focused on nuisance and the restriction of cats in environmentally sensitive areas.

Notably, the Cat Act does not prescribe a default limit on the number of cats that may be kept on a property. However, advice received from the Department of Local Government, Sport and Cultural Industries is that *"...Imposing cat limits in local laws is strongly advisable, as these limits help to manage cat numbers in the district and may reduce the number of cats likely to become nuisances, stray or feral. However, it is ultimately up to individual councils to determine whether their cat local law will include a limit or not."*

The absence of a limitation on numbers of cats would mean that enforcement options would be limited to proving nuisance was being created. Nuisance is more difficult to prove than a mandated limitation on the maximum number of cats and would be entirely reliant on the willingness of an aggrieved resident providing evidence in support of it.

Previous complaints investigated by Ranger Services and/or Health Services reveal that there is a strong correlation between excessive cat numbers and the prevalence of nuisance activities.

It is important to note that, in general, a restriction on the number of cats cannot be applied retrospectively. If an owner can prove that the cat was kept at the premises, or they were the owner of the cat, before the local law came in to effect, then they would have a defence to a charge for keeping more than the standard number of cats.

Cat Prohibited Areas

A prominent trend in the sector with newer cat local laws is the inclusion of cat prohibited areas. The draft cat local law contains, in Schedule 3, a list of reserves that are proposed to be cat prohibited areas.

The reserves listed are all under the care and control of the City, either by a vesting Order from the Crown or owned outright by the City. The areas chosen, in consultation with the City's Environmental Services team, are those that are considered to be of significance from a biodiversity perspective.

A balanced approach was taken when selecting areas where cats are to be prohibited to ensure that enforcement remains workable whilst also acting as a potential deterrent to domestic cats being permitted to roam in these areas. Nevertheless, enforcement on public land introduces new risks not previously experienced by Ranger Services, including the potential for;

- community negativity towards the City when trapping cats,
- inadvertent trapping of non-target species, particularly wildlife,
- traps, cameras and other associated equipment being damaged or stolen.

COMMENT

The industry appears to be moving towards more modern cat local laws based around nuisance. The JSC has done a lot of work in this space and as noted previously in this report, there are a number of local governments that made cat local laws with unsuitable nuisance provisions, and were disallowed by the JSC.

The JSC's instructions to local governments have been consistent and clear. The common law nuisance definition is the only definition that is to be used. The same applies for local governments that attempt to make a cat local law based on confinement of cats to the owner's property.

Similarly, newer cat local laws around the sector contain restrictions on the numbers of cats that can be kept, whilst older ones do not. It is a similar situation for cat prohibited areas. The following table shows a range of metropolitan local governments that possess cat local laws and the varied provisions within them:

Local Government	Year	Prohibited Areas	Nuisance	Maximum Numbers
Bassendean	2021	Yes	Yes	Yes (2)
Bayswater (Proposed)	2022	Yes	Yes	Yes (up to 6 depending on dwelling type)
Belmont – Consolidated Local Law	2020	No	Yes	Yes (2)
Cambridge – Animals Local Law	2016	No	No	Yes (3)
Canning	2021	Yes	Yes	Yes (2)
Fremantle	2020	Yes	No	Yes (3)
Gosnells*	2014	Yes	No	No
Joondalup – Animals Local Law	1999	No	No	Yes (3)
Kalamunda – Keeping & Control of Animals & Nuisance Local Law	2011	No	Yes	Yes (3)
Kwinana	2022	No	Yes	Yes (2)

Local Government	Year	Prohibited Areas	Nuisance	Maximum Numbers
Mundaring	2005	Yes (however none prescribed)	No	Yes (2) however only 1 allowed in a Fauna Protection Buffer Zone
Mandurah	2019	Yes	Yes	Yes (2)
Rockingham	2018	No	Yes	Yes (2)
Stirling	1999	Yes	No	Yes (2) however only 1 allowed in a Fauna Protection Buffer Zone
Swan – Consolidated Local Laws	2005	Yes	No	Yes (2)
Wanneroo	2016	No	Yes	Yes (3)

* There is a prevailing local law in place.

The *City of Gosnells Cat Amendment Local Law 2022* sought to strengthen the current local law by prohibiting cats from being in a public place unless under effective control, making it an offence for a cat to be on private property without the consent of the owner and limiting the number of cats a person may keep to two.

However, in July 2022, Council voted to discontinue with the amendment local law after feedback from the DLGSC indicated that it would be almost certainly be disallowed by the JSC.

The City of Gosnells is currently redrafting the local law based upon extensive community consultation and the advice from the DLGSC in the hope that a revised local law will be accepted.

Whilst the Shire of Serpentine Jarrahdale presently doesn't have a cat local law, discussions with Officers indicate that they are finalising a draft local law for consideration by Council.

Cat Act – DLGSC Review

In May 2019 the DLGSC completed a statutory review into the operation of the Cat Act and the *Dog Amendment Act 2013*, which was tabled in Parliament by the Minister for Local Government on 27 November 2019. In respect of the Cat Act, the DLGSC findings were, verbatim:

1. Registration of cats is strongly supported. The current three options for periods of registration should remain.
2. Registration periods for cats and dogs should be the same.
3. A central registration database for cats should be explored.
4. Feedback indicated that the wearing of collars and tags achieves the purpose of enabling a cat to be identified by rangers — including making it obvious that it is a domestic cat that has an owner.
5. There is strong support for this to continue with no change.
6. Strong support from the public, local governments and industry exists for the practice of microchipping cats to continue.
7. Improvements could be made to the way microchip details are stored — this could be in either a national or State-based database.

8. Feedback indicated that education on the current requirements of microchipping, focusing on obligations of owners/breeders/rescues when a cat is transferred to a new owner and the need to keep information up-to-date, is necessary to achieve the desired outcomes of reuniting pets with their owners and the obligations of being a responsible cat owner.
9. There is strong support for cat numbers and confinement/curfews of cats to be implemented State-wide (in legislation) rather than through individual local laws — to provide consistency among local governments.
10. As a means of controlling cat numbers, there were multiple requests in the feedback received for the Cat Act to be brought into alignment with the Dog Act by placing greater restrictions on cat owners in relation to the number of cats that people can own.
11. The provisions in the Cat Act for cats to be sterilised should remain.
12. Feedback indicated that the age of cat sterilisation should be lowered, although further expert consultation on this will be needed.

The full review report is attached. Whilst no timeframe has been provided by the DLGSC in respect of amending the Cat Act, Officer opinion is that once the DLGSC has dealt with the Minister's reforms to the *Local Government Act 1995* and associated legislation, the DLGSC is likely to turn its focus toward other legislation it administers.

This could become a priority focus area for the DLGSC on the back of a number of contentious and problematic local government cat local laws made in the past 1-2 years that have been disallowed in part (or in the case of the Shire of Manjimup, in full) by the JSC for reasons that have been well documented and subject of repeated instruction from the JSC in the past. The DLGSC provides greater scrutiny to draft cat local laws than other local laws for this very reason.

In the event the Cat Act is amended to account for the findings of the aforementioned review report, and the City has already made a cat local law that subsequently becomes inconsistent with the Cat Act because of the amendments, a mechanism exists in the *Local Government Act 1995* to correct local laws [Act, s. 3.17].

Such a circumstance would likely effect most if not all local government cat local laws, leading to the DLGSC (via the Governor's powers under s. 3.17) to make a uniform local law to amend those local laws, much in the same manner as the DLGSC did in 2020 for parking local laws when the *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2020* was proclaimed.

The City would not need to go through the local law amendment, advertising and gazettal process prescribed by the *Local Government Act 1995* as it will be a function undertaken by the DLGSC pursuant to s. 3.17. However, the upshot of such an action, if it transpires, is that it is likely the City will have little control over the changes to the content of its local law.

OPTIONS

There are a number of options available to Council.

Option 1 is to not proceed with the draft local law, and the City's current enforcement mechanism for dealing with cat control remains the status quo.

Option 2 is to adopt the draft Local Law preferred by SOHAG which excludes the provisions relating to the maximum number of cats that can be kept, by removing Part 4, Schedule 1 and the associated provisions from the local law.

Option 3 is to adopt the original draft local law as prepared by Officers, which contains provisions in respect of limiting the numbers of cats that may be kept, and requiring a cat owner to obtain a permit to keep more than the prescribed number of cats.

Consultation Process

Given the City's experience with its previous attempt to produce a cat local law, it is accepted that any new proposed cat local law will be contentious, regardless of whether Council opts to proceed with Option 2 or Option 3.

For this reason, it is proposed to utilise an enhanced approach for the public consultation phase of this proposed local law. Whilst the statutory requirements set out below are not for negotiation, the City can provide a longer public notice period (e.g. 8 weeks instead of the minimum of 6). In addition to the required methods of advertising by local public notice and local newspaper, it is further proposed to utilise the Engage Armadale portal that can be accessed by a QR code (published in the local newspaper or in another printed form) so that a person can use their smartphone and be taken directly to Engage Armadale to provide their feedback on the proposed local law.

The City's Communications team will work closely with Officers to identify additional areas for community engagement. These initiatives will make it a lot easier for the community to engage with the City in respect of the proposed local law, and potentially mean that the City can obtain a greater number of responses that will better demonstrate the broad cross section of views within the community.

If Option 2 or Option 3 is chosen, the City must carefully comply with s. 3.12 of the *Local Government Act 1995* in order to make the local law. Whilst the Act provides that a failure to follow the procedure does not immediately invalidate a local law, there must be substantial compliance [Act, s. 3.12(2A)].

Once Council has resolved to give local public notice (not less than 6 weeks for submissions), it must also provide a copy of the proposed local law to the Minister, as well as to any person requesting it [Act, s. 3.12(3)]. This process allows the DLGSC to provide feedback to the City, and any requested amendments can be incorporated into the local law. This process will also allow the DLGSC to check the draft local law for compliance with JSC instructions.

After the last day for submissions, Council is to consider any submissions, and may make the local law as proposed, provided it is not significantly different from what was proposed [Act, s. 3.12(4)]. This means if the DLGSC has requested any simple grammatical amendments or the like, this would not be substantially different. Council could also make substantial amendments following consideration of any submissions. In the event there are any substantial amendments, the process must be commenced again [Act, s. 3.13].

After submissions, Council must resolve by absolute majority to make the local law [Act, s. 3.12(4)]. Once made, the City will be required to publish the local law in the *Gazette* and give a copy of it to the Minister. Local public notice is again required [Act, s. 3.12(5), (6)].

The City will provide the local law and relevant explanatory memorandum, with supporting documents to the JSC. At this stage the JSC could request amendments, an undertaking by the City or disallow the local law should it not be supported or the City has not followed the prescribed process for making a local law.

If the local law is endorsed by Council for public notice and provision to the Minister, it is possible the local law could come into effect by the end of the second quarter of 2023.

CONCLUSION

A Cat Local Law will provide the City with sensible control measures relating to the keeping of cats beyond those that are specified in the Cat Act.

It will promote and encourage responsible cat ownership, provides a framework for the control of nuisance cats and cat management facilities, and prescribes environmentally sensitive areas in which cats are prohibited.

It is not recommended that Option 1, i.e. the 'status quo' is chosen, as it will not provide any semblance of a cat control mechanism outside that provided for by the Cat Act, and hence deprive the City of an enforcement mechanism for dealing with an issue that is in greater demand as time passes.

ATTACHMENTS

1. Schedule of Submissions - Proposed Cat Local Law (2015 Proposal)
2. Draft City of Armadale Cat Local Law 2022 - SOHAG Version
3. Draft City of Armadale Cat Local Law 2022 - Original as Presented
4. DLGSC - Statutory Review of the Cat Act and Dog Act (May 2019)
5. DRAFT City of Armadale Cat Local Law 2022 - Original as Presented Showing Sections Removed in SOHAG Version

MOTION

A MOTION WAS put by Cr Silver that Option 2 be adopted, i.e..

Adopt the draft Local Law preferred by SOHAG which excludes the provisions relating to the maximum number of cats that can be kept, by removing Part 4, Schedule 1 and the associated provisions from the local law.

Moved Cr M Silver, Seconded Cr G Nixon

Opposed Cr K Busby

MOTION LOST

(1/6)

Committee Discussion

The Committee agreed to adopt Option 3 with an amendment to the number of cats to be kept without a permit included in the recommendation and asked for the recommendation to be amended.

RECOMMEND

C3/2/23

That Council:

1. Endorses Option **3 with an amendment to the number of cats to be kept without a permit to be 4** as its preferred model of a proposed cat local law;
2. In accordance with section 3.12(3)(a) of the *Local Government Act 1995*, give local public notice of the proposed draft cat local law with the purpose and effect of the proposed local law to be summarised in the notice;
3. Note that any public and Ministerial responses will be reported to Council for consideration prior to making of the local law and publication in the Government Gazette; and
4. Authorise the CEO to undertake necessary administrative actions in order to give effect to (1) above.

Moved Cr K Busby
MOTION CARRIED

(7/0)

COUNCILLORS' ITEMS

Nil

EXECUTIVE DIRECTOR COMMUNITY SERVICES REPORT

Nil

MEETING DECLARED CLOSED AT 8:20PM

COMMUNITY SERVICES COMMITTEE SUMMARY OF ATTACHMENTS 7 FEBRUARY 2023		
ATT NO.	SUBJECT	
1.1 NEW DRAFT POLICY: ENGAGEMENT AND CONSULTATION WITH THE ABORIGINAL ELDERS AND COMMUNITY MEMBERS		
1.1.1	Draft Policy - Engagement with Aboriginal Elders	
3.1 PROPOSED CAT LOCAL LAW		
3.1.1	Schedule of Submissions - Proposed Cat Local Law (2015 Proposal)	
3.1.2	Draft City of Armadale Cat Local Law 2022 - SOHAG Version	
3.1.3	Draft City of Armadale Cat Local Law 2022 - Original as Presented	
3.1.4	DLGSC - Statutory Review of the Cat Act and Dog Act (May 2019)	
3.1.5	DRAFT City of Armadale Cat Local Law 2022 - Original as Presented Showing Sections Removed in SOHAG Version	

The above attachments can be accessed from the Minutes of the Community Services Committee meeting of 7 February available on the City's website

CHIEF EXECUTIVE OFFICER’S REPORT

13 FEBRUARY 2023

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1.1 - COUNCILLORS INFORMATION BULLETIN - ISSUE NO 1/2023

WARD : ALL
FILE No. : M/48/23
DATE : 24 January 2023
REF : MC
RESPONSIBLE : Chief Executive Officer
MANAGER

In Brief:

- Councillor's Information Bulletin – Councillors are advised to take note of the information submitted in Issue No. 01/2023 to be received by Council

The following general information and memorandums were circulated in Issue No 1/2023 on 9 February 2023.

COMMENT

Correspondence & Paper

Nil

Information from Human Resources

Employee Movements

Information from Technical Services

NIL

Information from Community Services

NIL

Information from Corporate Services

Progress Report

Progress Report on Contingency, Operational & Strategic Project

Outstanding Matters & Information Items

Report on Outstanding Matters – Corporate Services Committee

Economic Development

Tourism & Visitor Centre Report

Report of the Common Seal

Information from Development Services

Outstanding Matters & Information Items

Report on Outstanding Matters - Development Services Committee

Review before the State Administrative Tribunal (SAT)

Design Review Panel Meetings – January 2023

Health

Health Services Manager's Report – January 2023

Health & "Wellbeing Officer Report – January 2023

Planning

Planning Applications Report – January 2023

Schedule of current Town Planning Scheme No.4 Amendments

Subdivision Applications - WAPC Approvals/Refusals – January 2023

Subdivision Applications - Report on Lots Registered for 2022/2023

Compliance Officer's Report – January 2023

Building

Building Services Manager's Report – January 2023

Building Health/Compliance Officer's Report – January 2023

ATTACHMENTS

There are no attachments for this report.

RECOMMEND

CEO1/2/23

That Council acknowledge receipt of Issue 1/2023 of the Information Bulletin



ORDINARY MEETING OF COUNCIL
MONDAY, 30 JANUARY 2023

MINUTES

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CITY OF ARMADALE

MINUTES

OF ORDINARY COUNCIL MEETING HELD IN THE COUNCIL CHAMBERS,
ADMINISTRATION CENTRE, 7 ORCHARD AVENUE, ARMADALE ON MONDAY, 30
JANUARY 2023 AT 7.00PM.

1 DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Mayor, Cr Butterfield, declared the meeting open at 7.00 pm.

2 RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (previously approved)

PRESENT:

Mayor, Cr R Butterfield
presided over

River Ward

Deputy Mayor, Cr K Busby
Cr J Keogh
Cr K Kamdar
Cr M J Hancock
Cr E J Flynn
Cr G J Smith
Cr G Nixon

Minnawarra Ward
River Ward
Ranford Ward
Heron Ward
Heron Ward
Minnawarra Ward
Hills Ward

IN ATTENDANCE:

Ms J Abbiss	Chief Executive Officer
Mr M Hnatojko	A/Executive Director Corporate Services
Mr P Sanders	Executive Director Development Services
Mr M Andrews	Executive Director Technical Services
Mrs S Van Aswegen	Executive Director Community Services
Mrs S D'Souza	CEO's Executive Assistant

Public: Nil

LEAVE OF ABSENCE:

Leave of Absence previously granted to Cr M S Northcott, Cr P A Hetherington
and Cr S J Mosey

APOLOGIES:

Apology received from Cr S Virk, Cr M Silver and Cr S Peter

**3 ADVICE OF RESPONSE TO PREVIOUS PUBLIC QUESTIONS
TAKEN ON NOTICE**

The following question was taken on notice at Council's Meeting on Monday, 19 December 2022 and responses (summarised below) forwarded in a letter by the Acting Executive Director Development Services.

Richard Henderson

Q7: I was the person that took the photographs of the said wetlands which a lot of people here have probably seen. The wetlands still in its entirety is still there right now and this is where the Council should step in and stop it in its tracks before any further destruction of that wetlands is ongoing.

I have actually written to the City in relation to the wall between Lots 603-604 and there is a sand bund at a 45 degree angle and I found that unacceptable to my privacy. Now that you have pulled out the entirety of the land along Balannup Road, the proposed development is at the rear of my property (Lot 201). Do I still get my privacy from that property onto my property once this development goes ahead?

Response

Question 7

The introduction part of your question refers to Ms Lyn Osborne's earlier question regarding the potential environmental issues raised by the Structure Plan. These were addressed by the Mayor's answer to Q5 (refer to attached Minutes).

Your question proceeds to outline your concerns for the privacy of your property at Lot 604 (57) Balannup Road when the property (Lot 201 Skeet Road) sharing a common rear boundary is in future, developed for urban residential purposes. Privacy of residential development including privacy impacts on neighbouring properties is generally addressed at the time of assessment of applications for residential development.

The Privacy of your General Rural zoned property on Balannup Road will be addressed during the assessment of applications at future residential construction stage which will follow on after prerequisite planning approvals have been granted including:

- State Government (Minister for Transport; Planning; Ports) approval and gazettal of Amendment No.121 to Town Planning Scheme No.4;
- State Government (WAPC) approval of final revised Structure Plan documentation for the Skeet Road area submitted by the landowner, including approved final revised Local Water Management Strategy documentation;
- State Government (WAPC) approval of subdivision application documentation submitted by the landowner of Lot 201 Skeet Road including the setting of subdivision conditions for subsequent completion by the landowner;

- Local Government (City of Armadale) approval of Urban Water Management Plan documentation submitted by the landowner;
- Local Government (City of Armadale) approval of civil design/earthworks and construction drawings and documentation submitted by the landowner;
- Landowner completion of all civil design/earthworks and construction works, in accordance with the approved drawings and documentation;
- State and Local Government agencies and service providers sign-off/clearances for all subdivision conditions set by the WAPC;
- State Government (DPLH) release of new Land Titles for subdivided residential lots; and
- Local Government (City of Armadale) approval of Building Permit application for construction of residential dwellings or other Development Approval and Building Permit approvals for any non- residential development proposed by the landowner.

Similar processes to the above would apply in respect to urban residential development of the other property at Lot 200 Skeet Road which also shares a common rear boundary with your property.

The privacy impacts of urban development on any property would be as part of the assessment of Development Approval and Building Permit applications by the City of Armadale. However, many prerequisite planning/building approvals set out above will need to be completed before the Development Approval and Building Permit application stage is reached. Development Approval and Building Permit applications will be assessed against the State Government's R-Codes (State Planning Policy 7.3 Residential Design Codes).

The R-Codes govern the standards for residential development in Western Australia and form the basis for the design and assessment of landowner applications for residential development. The R-Codes can be viewed or downloaded directly from DPLH by following the attached link: <https://www.wa.gov.au/organisation/departments/departments-of-planning-lands-and-heritage>

In the case of applications assessed as not conforming with the R-Codes Deemed-to-Comply standards, the application would then undergo further detailed assessment during which the City may undertake consultation with relevant parties, including any neighbouring properties potentially impacted by the non-compliance.

The Hex Design and Planning Structure Plan application is before the State Government's Western Australian Planning Commission (WAPC) for its consideration of public submissions received, the Local Government recommendations of 19 December and WAPC final determination of the Structure Plan application, at the time of writing. Amendment No.121 to Town Planning Scheme No.4 is also still before the WAPC for consideration of recommendations to the Minister.

Parts 1 to 2 b) of Council's 19 December Resolution D25/12/22 on the Harrisdale North Structure Plan refers Council's recommendations to the Western Australian Planning Commission to approve the proposed Structure

Plan subject to a number of modifications as listed in the Schedule of Modifications attached to the Agenda report, including the deletion of Lots 601-606 Balannup Road from the Structure Plan area and other matters.

These include the City's recommendations that the WAPC support modifications to the Structure Plan before final approval of the Structure Plan including:

- the Structure Plan map, Part 1 and Part 2 of the report and all supporting technical reports to remove Lots 601-606 Balannup Road from the approved Structure Plan;
- the Structure Plan map, to indicate perimeter road to be shown along the rear boundary (north western boundary) of Lots 200-202 Skeet Road;
- the Structure Plan map, to indicate perimeter road along all POS areas;
- LWMS modification so no storm water drains out from basins into wetlands;
- Figure 6 and sections of the LWMS text to be updated to reflect the amended wetland boundaries and management categories shown in the GWSCP dataset;
- LWMS modification to include detailed ground and surface water design concept/s at the Structure Plan boundaries where Lots 601-606 Balannup Road are excluded from the Structure Plan;
- LWMS modifications to include a detailed earthworks concept for the interface between proposed SP and excluded portion, identifying the placement/location of the perimeter road running along the rear boundaries of Lots 200-202 Skeet Road and placement/location of the associated batters of the modified Structure Plan demonstrating adequate separation distance from Lots 601-606 Balannup Road; and
- LWMS and BMP Plan modifications to be consistent with the Structure Plan map.

The modifications to final Structure Plan figures and reports as outlined above will determine the details of future urban development applications for the Skeet Road lots. The City's full Recommendations on the Harrisdale North Structure Plan and Minutes of Council's decision (D25/12/22) can be viewed or downloaded directly from the attached link <https://www.armadale.wa.gov.au/agendas-and-minutes> and selecting Ordinary Council Meeting Minutes under the Council Meetings for 19 December 2022.

The City will provide written notification to all submitters once the WAPC has made its determination on the Structure Plan application.

4

PUBLIC QUESTION TIME

Nil

5 APPLICATIONS FOR LEAVE OF ABSENCE

5.1 Request for Leave of Absence – Cr K Busby and Cr J Keogh

Request for leave of absence received from Cr K Busby for the period 5 March 2023 until 26 March 2023 inclusive. (Includes 1 Ordinary Council Meeting – 13 March 2023).

Request for leave of absence received from Cr J Keogh for 7 February 2023. (Does not include an Ordinary Council Meeting).

MOVED Cr G Nixon

That Council grant leave of absence to :

- Cr K Busby for the period Sunday, 5 March 2023 to Sunday, 26 March 2023 inclusive. (Includes 1 Ordinary Council Meeting – 13 March 2023) and
- Cr J Keogh for 7 February 2023 (does not include an Ordinary Council meeting)

MOTION not opposed, DECLARED CARRIED

(8/0)

6 PETITIONS

Nil

7 CONFIRMATION OF MINUTES

7.1 PREVIOUS ORDINARY COUNCIL MEETING
HELD ON 19 DECEMBER 2022.

MOVED Cr E J Flynn that the Minutes of the Ordinary Council Meeting held on 19 December 2022 be confirmed as a true and accurate record.

MOTION not opposed, DECLARED CARRIED

(8/0)

8 ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION

1. Mayor's Announcements

Saturday 7 January 2023

Along with Cr Garry Smith, met with members Armadale Kelmscott Lions Club, Lions State Governor and District Governor, National Speaking Competition Winners from each state and National Competition Winner Huda Zaidi, who is a year 12 student, and resident of the City of Armadale.

Friday 13 January 2023

Met with a local resident and Planning staff regarding the subdivision of a constrained site in Kelmscott.

Sunday 15 January 2023

Spoke at the opening of Mata Durga Temple – Albany Highway, Kelmscott and welcomed the attendees to the City of Armadale and their new home in Kelmscott. Councillor Keogh also attended and addressed the large crowd.

Tuesday 17 January 2023

Met with City of Armadale waste staff and representatives of Plastic Oceans Australasia, regarding the Waste Education Program they run in local schools, (which is funded by the City).

Wednesday 18 January 2023

Met with Hugh Jones MLA to discuss matters in the seat of Darling Range.

Friday 20 January 2023

Meeting with Matt Keogh MP, Yaz Mubarak MLAs and Forrestdale Sporting Association regarding progress on the redevelopment of the club rooms at William Skeet Oval. The Executive Director of Community Services and Executive Director of Technical Services also attended to listen and provide timings and technical information.

Saturday 21 January 2023

Attended and gave a speech at the Handover of the Bedfordale Light Tanker at the Bedfordale Volunteer Fire Brigade. Deputy Mayor, Cr Busby promoted the City's Australia Day Event during a Heritage FM Interview, on my behalf.

Sunday 22 January 2023

Attended and gave a welcome speech to competitors and organisers of the Armadale Triathlon at Champion Lakes, which the City sponsored. The event was also used to promote the World Transplant Games which will be held later this year and will also utilise the Champion Lakes Regatta Centre and surrounds for the Games' triathlon.

Monday 23 January 2023

Attended AFAC to accept Award for "Best Swim School, for marketing promotion and Customer Care" from Executive Officer of Swim Coaches and Teachers Australia.

Tuesday 24 January 2023

Met with Veronica Hansen, regarding various matters, most notably, the gate at Wymond Road. The pamphlet detailing the two Emergency Exits from the Araluen Estate, has been developed and delivered to residents of the estate, as per the request made by another resident (of the estate).

Wednesday 25 January 2023

Attended SEREG meeting via TEAMS

Thursday 26 January 2023

Australia Day - Presided at Citizenship Ceremony held at Kelmscott Hall which welcomed a further 130 Citizens to the City of Armadale. Matt Keogh MP (Federal Member for Burt), Tony Buti MLA (Member for Armadale) and Yaz Mubarak MLAs (Member for Jandakot), were also in attendance. Presented the Auspire Citizen of the Year Awards to Mark Thompson, Graeme Hart (Citizen of the Year - Senior) and 2nd Chance Op Shop (Community Citizen of the Year (Group or Event)). Deputy Mayor Cr Busby, and Crs Smith, Keogh, Hetherington, Northcott, Nixon and Mosey were also in attendance to welcome our new citizens.

That evening, welcomed the crowd to the City of Armadale Alcohol Free Australia Day Event and then joined Councillors and the Mayor of the City of Gosnells, Teresa Lynes and the President of Serpentine Jarrahdale, Michelle Rich to enjoy the live music and fireworks.

Sunday 29 January 2023

Joined Hugh Jones MLA and Cr John Keogh to do litter picking with Friends of Banyowla - Clifton Hills

Monday 30th January 2023

Attended an online meeting with the WALGA Environment Committee to discuss a submission to Government, on basketball court noise in residential areas.

9 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN – WITHOUT DISCUSSION

Nil

10 REPORTS

10.1 CHIEF EXECUTIVE OFFICER'S REPORT

Report of the Chief Executive Officer.

MOVED Cr E J Flynn that the report be received.

MOTION not opposed, DECLARED CARRIED (8/0)

BUSINESS ARISING FROM REPORT

Recommendation CEO5/1/23 - List of Accounts Paid - November 2022

MOVED Cr G Nixon

That Council note the List of Accounts paid as presented in the attachment to this report and summarised as follows:

Municipal Fund

Accounts paid totaling \$13,203,030.93 on transactions 3192 to 4200, cheque no.123 to No.134 and Payrolls dated 13 November and 27 November 2022.

Credit Card

Accounts Paid totalling \$2,377.28 for the period ended November 2022.

MOTION not opposed, DECLARED CARRIED (8/0)

Recommendation CEO6/1/23 - Statement of Financial Activity - November 2022

MOVED Cr J Keogh

That Council pursuant to Regulation 34 of the *Local Government (Financial Management) Regulations 1996* (Financial Activity Statement Report) accept the Statement of Financial Activity for the five (5) month period ended 30 November 2022; and:

- i. Note that there are reportable actual to budget material variances for the period**
- ii. Note the \$46.36 small rates debts written off under Primary Delegation 1.0 and Secondary Delegation CORPS 1.1.**

MOTION not opposed, DECLARED CARRIED (8/0)

Recommendation CEO7/1/23 - City of Armadale Signage Strategy 2023-2027

MOVED Cr K Busby

That Council approve the City of Armadale Signage Strategy 2023- 2027 as attached to this report.

MOTION not opposed, DECLARED CARRIED (8/0)

11 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

12 URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION

Nil

13 MATTERS FOR REFERRAL TO STANDING COMMITTEES – WITHOUT DISCUSSION

1 Stop Signs - Corner of Wollaston Avenue and Eleventh Road (Cr John Keogh)

That the matter of installing stop signs at the corner of Wollaston Avenue and Eleventh Roads be referred to the Technical Services Committee.

2 Lobby for "Connections" Museum piece (Cr John Keogh)

That the matter of the City exploring options to lobby and sponsor the WA Museum to host "Connections" museum piece be referred to the Community Services Committee

14 MATTERS REQUIRING CONFIDENTIAL CONSIDERATION

Nil

15 CLOSURE

The Mayor, Cr Butterfield, declared the meeting closed at 7.08pm

MINUTES CONFIRMED THIS 13 FEBRUARY 2023

MAYOR