

CCS099: WASTE AMENDMENT LOCAL LAW 2018

Proponent / Owner	: City of Albany
Attachments	: City of Albany Waste Local Law 2007(with undertaking)
Report Prepared By	: Manager Governance and 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 establish and maintain sound business and governance structures.
 - **Community Priority:** Provide informed and transparent decision making that is consistent with our strategic direction, meets our legal obligations, reflects the level of associated risk and is adequately explained to the community.

In Brief:

- Council is requested to approve the administrative process to MAKE the *City of Albany Waste Amendment Local Law 2018*.

RECOMMENDATION

CCS099: RESOLUTION VOTING REQUIREMENT: ABSOLUTE MAJORITY

**MOVED: COUNCILLOR HAMMOND
SECONDED: COUNCILLOR MOIR**

THAT Council, in accordance with section 3.12 of the *Local Government Act 1995*:

(1) Resolves to MAKE the *City of Albany Waste Amendment Local Law 2018* as follows:

WASTE AVOIDANCE AND RESOURCE RECOVERY ACT 2007
LOCAL GOVERNMENT ACT 1995
CITY OF ALBANY
WASTE AMENDMENT LOCAL LAW 2018

Under the powers conferred *by the Local Government Act 1995*, and under all other powers enabling it, the Council of the City of Albany resolved on (Insert Date) to make the following local law:

1. Citation
This local law may be cited as the *City of Albany Waste Amendment Local Law 2017*.
2. Commencement
This local law comes into operation 14 days after the date of its publication in the Government Gazette.
3. Amendments
 - a. Delete the definition of 'refuse'.
 - b. Delete clause 2.7(1).
 - c. Clause 2.7, amended to:

2.7 Duties of owner or occupier

An owner or occupier of premises must—

- (a) except for a reasonable period before and after collection time, keep each receptacle in a storage space or area that is behind the street alignment;
- (b) if a receptacle requires to be emptied of waste, take reasonable steps to place a receptacle for collection on the verge adjoining the premises, or other area as determined by the local government, ensure that, within a reasonable period before collection time, each receptacle is—

- (i) within 1 metre of the carriageway;
- (ii) does not unduly obstruct any footpath, cycle way, right-of-way or carriageway; and
- (ii) facing squarely to the edge of and opening towards the carriageway, or in such other position as is approved in writing by the local government or an authorised person;
- (c) take reasonable steps to ensure that an adequate number of receptacles are provided and used for those premises and that each is kept in good condition and repair; and
- (d) in the case of a receptacle that is supplied by the local government, if the receptacle is lost, stolen, damaged or defective, notify the local government, as soon as practicable, after the event.

d. Clause 1.5 definitions amended to:

General waste receptacle means a receptacle for the deposit and collection of collectable waste that is not recycling waste;

Occupier in relation to premises, means any or all of the following—

- (a) a person by whom or on whose behalf the premises are actually occupied; or
- (b) a person having the management or control of the premises;

e. Clause 3.3 amended to:

3.3 Receptacles and containers for public use

A person must not, without the approval of the local government or an authorised person—

- (a) deposit household, commercial or other waste from any premises on or into; or
- (b) remove any waste from,

a receptacle provided for the use of the general public.

f. Clause 2.8 (1) amended to:

(1) An owner or occupier of premises may apply in writing to the local government for an exemption from compliance with the requirements of clause *2.7 (a) or (b).*

g. Clause 2.9(a)(b) amended to:

(b) interfere or tamper with, or remove, a receptacle placed for collection pursuant to clauses 2.6 or *2.7(b);* or

h. Clause 5.1 amended to:

Division 1 of Part 9 of the LG Act applies to a decision under this local law to grant, renew, vary or cancel—

- (a) an approval under clause *2.7(b);*

i. Schedule 2 — Prescribed Offences, references amended as follows:

Item No. 11 – Clause *2.7(a)*

Item No. 12 – Clause *2.7(b)*

Item No. 13 – Clause *2.7(c)*

Item No. 14 – Clause *2.7(d)*

Dated: [Insert Date]

The Common Seal of the City of Albany was affixed by authority of a resolution of the Council in the presence of –

DENNIS WELLINGTON, Mayor

ANDREW SHARPE, Chief Executive Officer

(2) APPROVES the giving of State-wide public notice in order to seek public comment.

**CARRIED 12-0
ABSOLUTE MAJORITY**

BACKGROUND

2. Council at its Ordinary Council Meeting of 27 February 2018, resolved to adopt the *City of Albany Waste Local Law 2017*.
3. On 26 June 2018, Council resolved to give a written undertaking to make amendments to the *City of Albany Waste Local Law 2017* as requested by the Joint Standing Committee on Delegated Legislation (JSCDL).

DISCUSSION

4. To initiate the local law amendment process, Council must first resolve to MAKE the *City of Albany Waste Amendment Local Law 2018*.
5. Section 3.12 of the Local Government Act 1995 (the Act) requires the person presiding at a Council meeting ensures the purpose and effect of the proposed amendment local law is given.
 - a. **Purpose:** The purpose of the principal local law is to provide for the regulation, control and management of activities and issues relating to waste collection, recycling, reuse and disposal within the district of the City of Albany.
 - b. **Effect:** Amendments will enact the undertaking given to the Joint Standing Committee on Delegated Legislation.
6. The procedure for amending local laws requires Council to advertise state-wide advising of its intention to make amendment local laws and seeking submissions within a six-week period.
7. Council is then required to consider all submissions prior to adopting the Amendment Local Law.

GOVERNMENT & PUBLIC CONSULTATION

8. A copy of the Amended Local Law will be forwarded to the Department of Local Government and the Department of Water and Environmental Regulation.
9. The Joint Standing Committee on Delegated Legislation reviewed the primary local law and recommended the listed amendments.
10. Under section 3.12 of the Act, the City is required to give State-wide publication of its intention to make the Local Law and to invite submissions from the public.

STATUTORY IMPLICATIONS

11. Amending a local law needs to be done in accordance with section 3.12 of the Act which is the same procedure for 'making' a local law. This is because an amendment local law is a new law in itself and must follow the full statutory process.
12. The resolution of Council to make the local law must be carried by **Absolute Majority**.
13. After making the local law a copy will be provided to the Minister for Local Government and the Minister for Department of Water and Environmental Regulation.

POLICY IMPLICATIONS

14. There are no policy implication related to this report.

16. The current determination resolved by Council on 27 February 2018, will remain in effect:

DETERMINATION: VERGE COLLECTION FOR COMMERCIAL PURPOSE

Clause 2.10 (2) of the *City of Albany Waste Local Law 2017* is suspended to allow for the lawful collection of waste deposited on the verge for commercial purposes.

The removal of the waste must be conducted in accordance with clause 2.10(3), which states in part: “a person must not disassemble or tamper with any waste deposited on a verge for a verge waste collection so as to increase the risk of harm to any person.”

RISK IDENTIFICATION & MITIGATION

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

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
Legal & Compliance <i>Local law may be disallowed if undertakings are not complied with.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<i>Amend local law as requested.</i>

FINANCIAL IMPLICATIONS

18. Cost will be incurred with respect to the advertising and eventual publication in the Government Gazette of the Amendment Local Law. This cost is estimated to be approximately \$250 in addition to staff time.

LEGAL IMPLICATIONS

19. If the local law is not amended within a reasonable time frame, the JSCDL will report the non-compliance to Parliament.

ENVIRONMENTAL CONSIDERATIONS

20. There are no environmental consideration related to this report. The principal local law developed under the Waste Avoidance and Resource Recovery Act 2007 provides a framework for the City to manage its waste collection and disposal services to benefit community health and the environment.

ALTERNATE OPTIONS

21. The options are:
- a. Comply with the current undertaking, or
 - b. Council may wish to reconsider its position on the local law.

CONCLUSION

22. It is recommended to comply with the current undertaking and MAKE the proposed *City of Albany Waste Amendment Local Law 2018*.

Consulted References	:	<ul style="list-style-type: none"> • <i>Local Government Act 1995</i> • <i>Waste Avoidance and Resource Recovery Act 2007</i>
File Number (Name of Ward)	:	All Wards (LE.LOL.14)
Previous Reference	:	<ul style="list-style-type: none"> • OCM 26/06/2018 Resolution DIS103 • OCM 27/02/2018 Resolution DIS078