

**1.3: CITY OF ALBANY PARKING AND PARKING FACILITIES
AMENDMENT LOCAL LAW 2012**

Land Description : City of Albany Municipality
Proponent : City of Albany
Attachment : City of Albany Parking and Parking Facilities Amendment
Local Law 2012
Responsible Officer(s) : Manager Compliance and Community Safety (S Jamieson)

IN BRIEF

- To consider amendments to the City of Albany Parking and Parking Facilities Local Law Local Law 2009 as a result of a directive from the Joint Standing Committee on Delegated Legislation.

ITEM 1.3: RESOLUTION

VOTING REQUIREMENT: ABSOLUTE MAJORITY

MOVED: COUNCILLOR HORTIN
SECONDED: COUNCILLOR GREGSON

THAT COUNCIL in accordance with Section 3.12 of the *Local Government Act 1995*:

- (I) **RESOLVES TO MAKE the *City of Albany Parking and Parking Facilities Amendment Local Law 2012* as follows:**

**LOCAL GOVERNMENT ACT 1995
CITY OF ALBANY PARKING AND PARKING FACILITIES AMENDMENT LOCAL LAW
2012**

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 Parking and Parking Facilities Amendment Local Law 2012
2. **Commencement.** This local law will come into operation on the fourteenth day after the day on which it is published in the Government Gazette.
3. **Principal Local Law.** In this local law, the City of Albany Parking and Parking Facilities Local Law Local Law 2009 as published in the Government Gazette on 12 February 2010 is referred to as the principal local law. The principal local law is amended as follows:
4. **Clause 1.4 amended**
In the definition for “taxi” after “to” insert “it”.
5. **Clause 2 amended**
 - a) Delete clause 2.9.
 - b) Re-designate clauses “2.10” through to “2.17” as “2.9” to “2.16” in sequential order.
6. **Clause 3.11 amended**
 - (a) In clause 3.11(1)(a) delete “an” and insert “a”.

(b) In clause 3.11(2)(a) delete “an” and insert “a”.

7. Clause 3.12 amended

Insert “Where” at the beginning of clause 3.12.

8. Schedule 2 amended

In the table—

(a) delete Item 10; and

(b) re-designate Items “11” through to “73” as “10” to “72” in sequential order.

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—

**Linda Hill
Acting Chief Executive Officer**

**Dennis Wellington
Mayor**

(II) APPROVES the giving of Statewide public notice of the proposed City of Albany Parking and Parking Facilities Amendment Local Law 2012 in order to seek public comment.

**CARRIED 12-0
ABSOLUTE MAJORITY**

BACKGROUND

1. Council at its Ordinary Meeting of August 2009 resolved to adopt the *Parking and Parking Facilities Local Law Local Law 2009* (the Local Law) and in accordance with the *Local Government Act 1995* (the Act) the Local Law was published in the *Government Gazette* on 12 February 2010.
2. On 4 May 2010, Council received advice from Joint Standing Committee on Delegated Legislation that the following clauses in the local law contained typographical errors and requested an undertaking that the following amendments be made:
 - a. Amending the definition of a “taxi” by inserting the word “it” after the word “to”;
 - b. Amending clauses 3.11(1)(a) and (2)(a) by deleting “an” and inserting the word “a”;
 - c. Amending clause 3.12 by inserting the word “Where” at the beginning of clause 3.12;
3. On 4 May 2010, Council received advice from Joint Standing Committee on Delegated Legislation that clause 2.9(3) is a determination device as the clause attempted to sub delegate the exercise of power under the Local Government Act 1995 to a mere resolution of a simple majority of the Council whereas Local Laws must be made by an absolute majority of council members under section 3.12(4) of the Local Government Act. JSCDL has previously allowed special event local laws (such as the Perth Annual Skyshow and Red Bull Air Race) to use determination devices to establish no-parking zones, but only where a procedure is followed when the no parking areas are publicised before the event and adequately sign posted during the event.

4. Accordingly a request was made that clause 2.9(4) be amended to include some reasonable, defined limit to the possible dates that may be used for special events; A further amendment to clause 2.9 was sought to include a provision whereby sufficient local public notice of the special event and the amount of fee payable for special event parking be given.
5. As the knowledge of special events is not sufficiently adequate to provide sufficient notice that Local Governments must follow under Section 3.50 of the Local Government Act 1995 it has been decided to delete the clause 2.9 and the accompanying penalty for the offence created by clause 2.9(2) provided in Schedule 2 of the Prescribed Offences:
6. The Joint Standing Committee on Delegated Legislation was advised on 19 May 2010, that the Local Law would be amended as requested and the City would not rely on, or use, the previously mentioned clauses.
7. The *City of Albany Parking and Parking Facilities Amendment Local Law 2012* has been prepared for Council consideration (refer Responsible Officer Recommendation).

DISCUSSION

8. Section 3.12 of the Act requires the person presiding at a Council meeting to ensure give notice to the meeting of the purpose and effect of the proposed amendment local law.

Purpose: The purpose of this Local Law is to establish the requirements and conditions with which any persons parking or standing a vehicle within the district must comply.

Effect: The effect of this Local Law is to provide for the regulation, control and management of parking and standing of vehicles generally and for the regulation, control and management of parking facilities.

PUBLIC CONSULTATION / ENGAGEMENT

9. 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.

GOVERNMENT CONSULTATION

10. A copy of the Amended Local Law will be forwarded to the Department of Local Government for consideration and comment before endorsement.
11. The Joint Standing Committee on Delegated Legislation reviewed the primary local law and recommended this listed amendments.

STATUTORY IMPLICATIONS

12. Section 3.12 of the Local Government Act 1995 states:

“3.12 Procedure for Making Local Laws

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.
- (2) *At a Council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.*
- (3) *The local government is to –*
 - a) *give Statewide public notice stating that –*
 - i) *the local government proposes to make a local law the purpose and effect of which is summarised in the notice;*
 - ii) *a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and*
 - iii) *submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given.*
 - b) *as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and*
 - c) *provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.*
- (3a) *A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.*
- (4) *After the last day for submission, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.*
(Absolute Majority Required).*
- (5) *After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.*
- (6) *After the local law has been published in the Gazette the local government is to give local public notice:*
 - a) *stating the title of the local law;*
 - b) *summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and*
 - c) *advising that copies of the local law may be inspected or obtained from the local government’s office.*
- (7) *The Minister may give directions to local governments requiring them to provide to the Parliament copies of the local laws they have made”*

FINANCIAL IMPLICATIONS

13. Cost will be incurred with respect to the advertising and eventual publication in the Government Gazette of the Amendment Local Law. This cost would be approximately \$750 in addition to staff time preparing the advert and liaising with interested parties during the public submission period.

POLICY IMPLICATIONS

14. There are no policy implications related to this item.

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

15. The Joint Standing Committee on Delegated Legislation was advised on 19 May 2010, that the Local Law would be amended as requested and the City would not rely on, or use, the subject clauses.
16. This commitment was reaffirmed by the Mayor, on behalf of Council on the 17 February 2012.
17. In order to honour the commitment given to the Joint Standing Committee on Delegated Legislation it is recommended that Council resolves to make the amended local law. If Council does not progress the amendments the Joint Standing Committee on Delegated Legislation could revoke/cancel the existing Local Law, leaving the City with no Parking and Parking Facilities legislation.
18. Should Council wish to reconsider its position on the local law (i.e. event parking), it is recommended that such a process is undertaken separately.

SUMMARY CONCLUSION

19. In addition to the undertaking provided to the Joint Standing Committee on Delegated Legislation, Council is required to amend the Local Law within two years of providing the undertaking.
20. The procedure for amending local laws requires Council to advertise statewide advising of its intention to make amendment local laws and seeking submissions within a six-week period.
21. Council is then required to consider all submissions prior to adopting the Amendment Local Law.
22. To start the process and comply with the requirements of the Joint Standing Committee on Delegated Legislation, it is recommended that Council resolve to make the *City of Albany Parking and Parking Facilities Amendment Local Law 2012*.

Consulted References	<i>Local Government Act 1995</i> <i>Local Government (Functions and General) Regulations 1996</i>
File Number (Name of Ward)	All Wards
Previous Reference	OCM 18/08/2008 Item 13.5.1