

1.3: CITY OF ALBANY KEEPING AND WELFARE OF CATS AMENDMENT LOCAL LAW 2013

Land Description	: Whole of Municipality
Proponent	: City of Albany
Councillor Workstation	: City of Albany Keeping and Welfare of Cats Local Law 2008 with amendments incorporated.
Responsible Officer	: Manager Compliance and Community Safety (S Jamieson)

IN BRIEF

- To consider amendments to the City of Albany Keeping and Welfare of Cats Local Law 2008 as a result of a directive from the Joint Standing Committee on Delegated Legislation (JSCDL).

ITEM 1.3: RESOLUTION**VOTING REQUIREMENT: ABSOLUTE MAJORITY****MOVED: COUNCILLOR CALLEJA****SECONDED: COUNCILLOR GREGSON**

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

- (a) **RESOLVES TO MAKE the *City of Albany Keeping and Welfare of Cats Amendment Local Law 2013* as follows:**

**LOCAL GOVERNMENT ACT 1995
CITY OF ALBANY
KEEPING AND WELFARE OF CATS AMENDMENT LOCAL LAW 2013**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the City of Albany Council resolved on *[Insert date]* to make the following Local Law.

- Citation**
This local law may be cited as the *City of Albany Keeping and Welfare of Cats Amendment Local Law 2013*.
- Commencement**
This local law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.
- Principal Local Law**
In this local law, the *City of Albany Keeping and Welfare of Cats Local Law 2008* as published in the *Government Gazette* on 9 June 2009 is referred to as the principal local law. The principal local law is amended as follows:

- (a) **Commencement**
This local law will come into operation on the fourteenth day after the day on which it is published in the *Government Gazette*.
- (b) **Principal Local Law**
In this local law, the *City of Albany Keeping and Welfare of Cats Local Law 2008* as published in the *Government Gazette* on 9 June 2009 is referred to as the principal local law. The principal local law is amended as follows.
- (c) **Clause 2.1 amended**
Delete clause 2.1(d).
- (d) **Clause 3.1 amended**
(a) In the definition of ‘Keeper’ after “kept” insert the words “who has care and control of the cat,”; and
(b) Delete the definition “Sterilised”
- (e) **Clause 4 amended**
(a) In the heading of clause 4—
(i) After “Identified” insert the word “and”; and
(ii) After “Registered” delete “and sterilised”.
(b) Delete clause 4.2(e);
(c) Clause 4.2(f) is redesignated as clause 4.2(e);
(d) Delete clause 4.3;
(e) In clause 4.4 delete “(f)” after 4.2;
(f) In clause 4.4 insert (e) after 4.2;
(g) Delete clause 4.5;
(h) Clause “4.4” is designated as “4.3”; and
(i) Clauses “4.6” through to “4.11” are redesignated as “4.4” to “4.9” consequently.
- (f) **Clause 5.1 amended**
(a) In clause 5.1(b) delete “;” after the word “Cats”;
(b) In clause 5.1(b) insert “.” after the word “Cats”; and
(c) Delete clause 5.1(c);
- (g) **Clause 5.5 amended**
(a) Delete clause 5.5; and
(b) Clauses “5.6” through to “5.13” are redesignated as “5.5” to “5.12” consequently.
- (h) **Clause 9 amended**
After clause 9.8 insert—

“9.9 A Keeper of a cat may apply to have their details omitted from the register referred to in clause 9.8 for their own protection or that of their family.”
- (i) **10.Clause 10.1 amended**
In clause 10.1 delete the words “of contravening clause 5.12” after the word “offence”.

- (j) **Schedule 2 amended**
 (a) **Delete Item 2; and**
 (b) **Items “3” through to “6” are redesignated as “2” to “5” consequently.**

Dated: _____

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

Graham Foster
 Acting Chief Executive Officer

Dennis Wellington
 Mayor

- (b) **APPROVES** giving notice through the placement of a state-wide public notice of the proposed *Keeping and Welfare of Cats Amendment Local Law 2013*, in order to seek public comment.

CARRIED 12-0
ABSOLUTE MAJORITY

BACKGROUND

1. On 23 February 2012, Council advised the JSCDL, while Council resolved to make the Local Law regarding the Keeping and Welfare of Cat Amendments on 15 March 2011, the adoption of this amendment Local Law was held in abeyance pending the Royal Assent of the State *Cat Act 2011*.
2. The Royal Assent did not occur until 9 November 2011 and the regulations were not promulgated until 8 December 2012.
3. Council:
 - a. At its Ordinary Meeting on 18 November 2008, Council resolved to adopt the *Keeping and Welfare of Cats Local Law 2008* (the Local Law) and in accordance with the *Local Government Act 1995* (the Act) the Local Law was published in the *Government Gazette* on 9 June 2009.
 - b. On 10 August 2009, received advice from JSCDL expressing concern over a number of clauses in the Local Law and requesting an undertaking from the City to amend the Local Law by:
 - (i) Amending the definition of a “Keeper”;
 - (ii) Deleting the reference to clause 5.12 in clause 10.1; and
 - (iii) Amending clause 9 to include the provision for a cat owner to apply to have their details omitted from the register for their own protection or that of their family.
 - c. On 22 September 2009, received a further letter from the JSCDL requesting an additional undertaking to amend the Local Law by:
 - (i) Deleting the definition of “Sterilised” in clause 3.1;
 - (ii) Deleting clauses 2.1(d), 4.2(e), 4.3, 4.5, 5.1(c), and 5.5; and;
 - (iii) Deleting the reference to sterilisation in the heading in clause 4; and
 - (iv) Deleting Item 2 in Schedule 2.

4. The JSCDL was advised on 14 October 2009, that the Local Law would be amended as requested and the City would not rely on, or use, the previously mentioned clauses.
5. The *Keeping and Welfare of Cats Amendment Local Law 2013* has been prepared for Council consideration (refer Responsible Officer Recommendation).

DISCUSSION

6. Section 3.12 of the Act requires the person presiding at a Council meeting to give notice to the meeting of the purpose and effect of the proposed amendment Local Law.

Purpose

7. The purpose of the amendment to the *Keeping and Welfare of Cats Local Law 2013* is to make amendments as requested by the Joint Standing Committee on Delegated Legislation.

Effect

8. The effect of the amendment ensures consistency with similar local laws.

PUBLIC CONSULTATION / ENGAGEMENT

9. Under section 3.12 of the Act, the City is required to give notice by placing a State-wide advertising notice of its intention to make the Local Law and to invite submissions from the public.

GOVERNMENT CONSULTATION

10. A copy of the draft Local Law will be forwarded to the Department of Local Government for consideration and comment before endorsement.

STATUTORY IMPLICATIONS

11. Section 3.12 of the Local Government Act 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 State-wide 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

12. 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 \$500. in addition to staff time preparing the advert and liaising with interested parties during the public submission period.
13. Repealing the current cat local law would remove the City's authority to register cats and a refund of registration fees may be required prior to the *Cat Act 2011* coming into effect in December 2013.

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS & LEGAL IMPLICATIONS

15. The JSCDL was advised on 14 October 2009, that the Local Law would be amended as requested and the City would not rely on, or use, the subject clauses.

16. In order to honour the commitment given to the JSCDL it is recommended that Council resolves to make the amended Local Law. If Council does not progress the amendments within a two year timeframe, the JSCDL could revoke/cancel the existing Local Law, leaving the City with no cat control legislation until December 2013.
17. Should Council wish to reconsider its position on the Local Law it is recommended that such a process is undertaken separately.

SUMMARY CONCLUSION

18. In addition to the undertaking provided to the JSCDL, Council is required to amend the Local Law within two years of providing the undertaking.
19. 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.
20. Council is then required to consider all submissions prior to adopting the Amendment Local Law.
21. To start the process and comply with the requirements of the JSCDL, it is recommended that Council resolve to make the *Keeping and Welfare of Cats Amendment Local Law 2013*.

Consulted References	City of Albany Keeping and Welfare of Cats Local Law 2008
File Number (Name of Ward)	All Wards
Previous Reference	PESPC 21/05/08 – Item 6.3 OCM 17/06/08 - Item 11.6.1 OCM 19/02/08 – Item 11.2.1 OCM 18/11/08 – Item 11.6.1 – 5 SCM 13/10/09 – Item 6.3