

PD014: KEEPING AND WELFARE OF CATS LOCAL LAW 2008

Proponent : City of Albany
Attachments : Comparison between Keeping and Welfare of Cats Local Law 2008 (Principal), Proposed Amendment Local Law 2013 and Legislation.
Responsible Officer(s): : Executive Director Planning and Development Services (D Putland)

Responsible Officer Signature:

STRATEGIC IMPLICATIONS

1. This item relates to the following elements of the [City of Albany Strategic Community Plan 2023](#) and [Corporate Business Plan 2013-2017](#):
 - a. **Key Theme:** 5. Civic Leadership.
 - b. Strategic Objectives:
 - 5.1. To establish and maintain sound business and governance structures.
 - 5.3 To engage effectively with our community.
 - c. Strategic Initiative: Nil

In Brief:

- Consider repeal of the Keeping and Welfare of Cats Local Law 2008.

RECOMMENDATION

**PD014: COMMITTEE RECOMMENDATION
VOTING REQUIREMENT: ABSOLUTE MAJORITY**

1. That Council in accordance with section 3.12 of the *Local Government Act 1995*, resolves to **MAKE** the City of Albany Repeal Local Law 2013, as set out below:

Keeping and Welfare of Cats Repeal Local Law 2013

PART 1 – PRELIMINARY

1.1 Citation

This local law may be cited as the *City of Albany Keeping and Welfare of Cats Repeal Local Law 2013*.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

PART 2 – REPEAL

2.1 Repeal

The *Keeping and Welfare of Cats Local Law 2008* as published in the *Government Gazette* on 9 June 2009 is repealed.

Dated [Insert] day of [Insert] 2013

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

DENNIS WELLINGTON, Mayor
GRAHAM FOSTER, Chief Executive Officer

2. **APPROVES** giving notice through the placement of a state-wide public notice of the proposed City of Albany Repeal Local Law 2013, in order to seek public comment.

PD014: COMMITTEE RECOMMENDATION

MOVED: COUNCILLOR HAMMOND

SECONDED: COUNCILLOR GREGSON

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CARRIED 8-0

PD014: RESPONSIBLE OFFICER RECOMMENDATION

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BACKGROUND

3. At the Ordinary Council meeting held on 19 February 2013, Council resolved to give public notice of its intention to make the City of Albany Keeping and Welfare of Cats Amendment Local Law 2013.
4. At the submission closing date, Council had received no public submissions.
5. Post the publication of the amended local law, feedback was received from the Department of Local Government (DLG) and the new *Cat Regulations 2012* were published on 24 August 2013.

DISCUSSION

6. There are two situations that may lead to the repeal of a Local Law:
 - a. Repealing a Local Law with the intent of making a new Local Law for substantially the same purpose, but reflecting contemporary practices i.e. a new Standing Orders Local Law that reflects contemporary meeting procedure practices; or
 - b. A Local Law is deemed to be no longer necessary, has a defunct purpose or has been superseded by other legislation.
7. Based on the review (details follow this report) and the DLG Circular No. 31-2013, it is felt appropriate that the Local Law is reviewed for repeal, in accordance with section 3.12 of the *Local Government Act 1995*, as it has been superseded by the *Cat Act 2011* (the Cat Act) and *Cat Regulations 2012*.
8. However, if Council determines that the Local Law is still required, due to the significant number of changes required, the “Making” local law process must be restarted due to the number of changes required to ensure consistency with the new legislation and the prescribed transitional arrangements.

GOVERNMENT & PUBLIC CONSULTATION

9. Public. Public notice was given of the proposal to make the amended Keeping and Welfare of Cats Local Law 2013 at the 19 February 2013 Ordinary Meeting of Council. Public submission closed on 29 May 2013.
10. Government. Feedback was received from the DLG, being:
 - a. Consistency with Cat Act 2011. The full *Cat Act 2011* will take effect from 1 November 2013. The City should ensure that the local law is not inconsistent with the *Cat Act 2011* or the *Cat Regulations 2012*.

For example: The proposed clause 9.9 (A Keeper of 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) may potentially be inconsistent with the Cat Act and Regulations which requires certain information to be recorded in the local government cat register. The Committee may raise this as an issue.

Action Taken: A review of the subject clause was conducted and the current amended local law was amended accordingly by deleting the proposed clause.

- b. Undertaking sought by the Committee. The DLG is aware that this amendment resulted from undertakings requested by the Delegated Legislation Committee. The City should ensure the proposed amendments satisfies the undertaking, the Committee should be contacted for further clarification.

Action Taken: A full review was conducted that compared the principal local law and proposed amendments against the current Cat Act and regulations (full detail of review follows this report). This review identified a number of significant inconsistencies as commented on in the discussion section of this report.

11. Joint Standing Committee on Delegated Legislation. On 16 Oct 2013, the City contacted the Committee to seek a view on the City's proposed course of action (detailed in the discussion section of the report). The Committee Advisory Officer (legal) concurred with the proposed course of action to repeal the current local law and restart the making of the local law process noting the number of inconsistencies between the current local law and legislation.
12. DLG Circular No. 31-2013 dated 24 Oct 2013. City advised via circular that transitional arrangements mean that if a person wants to register more cats (that they own as at 1 November 2013) than your local laws allow, you should accept the registrations in the manner prescribed under the Act. This in effect makes the current local law, redundant.

STATUTORY IMPLICATIONS

13. In making a local law, a local government is to follow the procedure described in section 3.12 of the *Local Government Act 1995* (the Act).
14. After the last day for submissions, the local government is to consider any submissions made and make the local law as proposed or make a local law that is not significantly different from what was proposed.
15. In accordance with section 3.13 of the Act, if during the procedure for making a proposed local law the local government decides to make a local law that would be significantly different from what it first proposed, the local government is to recommence the procedure.
16. Actions required to repeal the local law. The local government is to give Statewide public notice stating that local government proposes to review the local law. After the last day for submissions made the local government is to consider any submissions made and cause a report of the review to be prepared and submitted to its Council.
17. When its council has considered the report, the local government may determine or not it considers that the local law should be repealed or amended. *Absolute Majority Required.
18. Note: "*making*" in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.

POLICY IMPLICATIONS

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

RISK IDENTIFICATION & MITIGATION

20. The risk identification and categorisation relies on the City's [Enterprise Risk Management Framework](#).

Risk	Likelihood	Consequence	Risk Analysis	Mitigation
<i>Council does not repeal the current local law.</i>	<i>Unlikely</i>	<i>Moderate</i>	<i>Medium</i>	<p><i>City of Albany continues to honour undertaking and conducts a further review and restarts the process.</i></p> <p><i>The transitional arrangements prescribed in the Cat (Uniform Local Provisions) Regulations 2013 prevail.</i></p>

FINANCIAL IMPLICATIONS

21. An appropriate budget line exists for the cost of giving public notice and advertising.

LEGAL IMPLICATIONS

22. Inconsistency with written laws. A cat local law is inoperative to the extent that it is inconsistent with the *Cat Act 2011*.

ENVIRONMENTAL CONSIDERATIONS

23. There are no direct environmental considerations related to this item; however appropriate Cat Control has a direct effect on the natural environment.

ALTERNATE OPTIONS

24. Detailed in the discussion section of this report.

SUMMARY CONCLUSION

25. Due to the number of inconsistencies between the principal local law that was developed prior to the promulgation and adoption of the new Cat legislation it is considered appropriate to restart the making law process and repeal the current local law.

Consulted References	:	<p><i>Local Government Act 1995</i></p> <p><i>Cat Act 2011</i></p> <p><i>Cat Regulations 2012</i></p> <p><i>Cat (Uniform Local Provisions) Regulations 2013</i></p> <p><i>Limits on Cat Numbers – Cat Act 2011, Circular No. 31-2013.</i></p>
File Number (Name of Ward)	:	(All Wards)
Previous Reference	:	OCM 19/02/2013 Report Item 1.3