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# CITY OF ALBANY

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CAT ACT 2011  
LOCAL GOVERNMENT ACT 1995

# ANIMALS LOCAL LAW 2020

**CAT ACT 2011  
LOCAL GOVERNMENT ACT 1995**

CITY OF ALBANY

**ANIMALS LOCAL LAW 2020**

CONTENTS

**PART 1—PRELIMINARY**

- 1.1 Title
- 1.2 Commencement
- 1.3 Repeal
- 1.4 Application
- 1.5 Interpretation

**PART 2—ANIMALS AND LIVESTOCK**

- 2.1 Leaving Large Animal or Dog in Public Place or on Local Government Property
- 2.2 Prohibitions relating to Large Animal
- 2.3 Livestock Not to Stray
- 2.4 Property to be Fenced

**PART 3—HORSES AND LARGE ANIMALS**

- 3.1 Horse Exercise areas
- 3.2 Fouling of Streets and Public Places
- 3.3 Keeping a Miniature Horse
- 3.4 Keeping of Large Animals
- 3.5 Keeping of Pigs
- 3.6 Stables
- 3.7 Stable hand Room
- 3.8 Manure Receptacle

**PART 4—PIGEONS**

- 4.1 Certificate of Registration
- 4.2 Application for Certificate of Registration
- 4.3 Adjoining Owners to be consulted
- 4.4 Approval Limitations
- 4.5 Duties of Certificate Holder
- 4.6 Limit on the Number of Pigeons
- 4.7 Cage, Enclosure or Loft requirements
- 4.8 Exercise of Pigeons
- 4.9 Alteration, Cancellation or Refusal of Certificate of Registration

**PART 5—KEEPING OF BEES**

- 5.1 Limitation on numbers and location of Hives
- 5.2 Restrictions on keeping Bees in Hives
- 5.3 Bees which cause a nuisance not to be kept

**PART 6—SMALL ANIMALS**

- 6.1 General
- 6.2 Keeping of Small Animals
- 6.3 Cleanliness
- 6.4 Disposal of Dead Animals
- 6.5 Burial of Animals

**PART 7—POULTRY, PIGEONS AND MISCELLANEOUS BIRDS**

- 7.1 Limitation on Numbers of Poultry and Pigeons
- 7.2 Conditions of Keeping Poultry
- 7.3 Conditions of Keeping Pigeons
- 7.4 Conditions of Keeping a Miscellaneous Bird
- 7.5 Removal of Non-Conforming Structure or Enclosure
- 7.6 Restrictions on Pigeons Nesting, Perching or Habitually Feeding
- 7.7 Restrictions on Feeding of Birds
- 7.8 Cleanliness of Poultry, Pigeon and Miscellaneous Bird Structures
- 7.9 Nuisance caused by Poultry, Pigeons and Miscellaneous Birds

**PART 8—CATS**

- 8.1 Interpretation
- 8.2 Keeping of Cats for which a licence is required
- 8.3 Cleanliness
- 8.4 Application for licence
- 8.5 Refusal to determine application
- 8.6 Factors relevant to determination of application
- 8.7 Decision on application
- 8.8 Conditions
- 8.9 Duration of licence
- 8.10 Revocation
- 8.11 Licence not transferable
- 8.12 Licence to be kept at the premises and available for view

**PART 9—MISCELLANEOUS**

- 9.1 Fees and Charges
- 9.2 False or Misleading Statement
- 9.3 Local government may undertake requirements of notice
- 9.4 Limit on Liability
- 9.5 Appeal and review rights

**PART 10—ENFORCEMENT**

- 10.1 Offences and Penalties
- 10.2 Modified Penalties and Offence Description
- 10.3 Form of Notices

**PART 11—DETERMINATIONS IN RESPECT OF HORSE EXERCISE AREAS**

- 11.1 Determinations as to use of local government property
- 11.2 Procedure for making a determination
- 11.3 Discretion to erect sign
- 11.4 Determination to be complied with
- 11.5 Register of determinations
- 11.6 Amendment or revocation of a determination

**SCHEDULE 1—PRESCRIBED OFFENCES****SCHEDULE 2—HORSE EXERCISE AREA DETERMINATIONS****SCHEDULE 3—ADDITIONAL CONDITIONS APPLICABLE TO KEEPING OF CAT LICENCE**

**CAT ACT 2011  
LOCAL GOVERNMENT ACT 1995**

CITY OF ALBANY

**ANIMALS LOCAL LAW 2020**

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995*, and under all other powers enabling it, the Council of the *City of Albany* resolved on 28 July 2020 to make the following local law.

**PART 1—PRELIMINARY**

**1.1 Title**

This local law may be cited as the *City of Albany Animals Local Law 2020*.

**1.2 Commencement**

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

**1.3 Repeal**

The *City of Albany Animals Local Law 2001* published in the *Government Gazette* on 15 January 2002 is repealed.

**1.4 Application**

This local law applies throughout the district.

**1.5 Interpretation**

(1) In this local law unless the context otherwise requires—

*Act* means the *Local Government Act 1995*;

*animal* includes cats, dogs, rabbits and ferrets or the like;

*application* means the completed form lodged by an applicant as required by this local law;

*applicant* means a person who has lodged an application for an approval, certificate or licence required for an activity by this local law;

*approved fees* means the fees and charges determined by Council from time to time for putting into effect the provisions of this local law;

*Authorised Person* means a person appointed by the local government under section 9.10 of the Act, to perform any of the functions of an Authorised Person under this local law and includes any Environmental Health Officer employed by the local government, and any member of the Western Australian Police Force;

*bee* means a bee of the species *Apis mellifera* and/or an insect belonging to any of the various hymenopterous insects of the super family Apoidea and commonly known as a bee;

*beehive* means an enclosed man made structure where bees of the species *Apis mellifera* live and raise their young and/or a moveable or fixed structure, container or object in which a colony of bees is kept;

*beekeeper* has the meaning given in Regulation 3 of the *Biosecurity and Agriculture Management Regulations 2013*;

*bird* includes galahs, parrots, budgerigars, finches, pigeons and doves or the like;

*caravan park* means an area of land on which caravans or camps are situated for habitation;

*Cat Act* means the *Cat Act 2011*;

*catteries* are premises registered for the breeding or caring of cats;

*certificate of registration* means a certificate of registration to keep pigeons issued pursuant to this local law;

*Code of Practice—Pigeon Keeping* means the Code of Practice for Pigeon Keeping and Racing in Western Australia as prescribed by the *Animal Welfare (General) Regulations 2003* as amended from time to time;

**Council** means the council of the City of Albany;

**cow** includes an ox, calf or bull;

**district** means the district of the City of Albany and includes any area placed under the jurisdiction of the City pursuant to any Act or Regulation;

**determination** means a determination made under Part 11;

**Dog Act** means the *Dog Act 1976*;

**Environmental Health Officer** means an Environmental Health Officer appointed by the City of Albany under the *Public Health Act 2016* and includes an acting or Assistant Environmental Health Officer;

**food premise** means a premises where food is stored, kept, prepared, manufactured, processed, cooked or served or otherwise dealt with for subsequent sale to the public;

**grouped dwelling** means a dwelling which is one of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above another, except where special conditions of landscape or topography dictate otherwise;

**Health Act** means the *Health Act 1911*;

**horse** includes an ass, mule, donkey, Shetland pony, pony or miniature horse;

**kennel establishment** means the kennel, yards and premises which is used to house a dog for commercial purposes, gain or reward;

**land** means land in the district and includes houses, buildings, works and structures, in or upon the land;

**large animal** includes a sheep, cow, goat, horse, deer, alpaca, pig (excluding a miniature pig) or any other animal so classified by the local government;

**licence** means a licence issued by the local government;

**licence holder** means a person who holds a valid licence;

**livestock** means any horse, cattle, sheep, goat, swine, buffalo, deer, camel, llama and alpaca;

**local government** means the City of Albany;

**local planning scheme** means any local planning scheme for the time being applying zoning or classification to land within the district;

**lot** has the same meaning given to it in the *Planning and Development Act 2005*;

**miniature horse** means a horse that does not exceed 870mm in height as an adult and is classified as a miniature by the Miniature Horse Association of Australia;

**miniature pig** means a pig that does not exceed 650mm in height and does not exceed 55 kilograms in weight as an adult;

**miscellaneous bird** includes all birds other than poultry and pigeons;

**multiple dwelling** means a dwelling in a group of more than one where any part of a dwelling is vertically above part of any other;

**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; or
- (c) interference which causes material damage to land or other property on the land affected by the interference;

**occupier** where used in relation to land means the person by whom or on whose behalf the land is actually occupied or, if there is no occupier, the person entitled to possession of the land;

**permit** means a permit issued under this local law;

**permit holder** means a person who holds a valid permit;

**person** means any person, company, public body, association or body of persons corporate or unincorporated and includes an owner, occupier, licensee and permit holder, but does not include the local government;

**pigeon** means birds of the species *columba livia* and includes homing pigeon, racing pigeon and dove;

**poultry** means any domestic fowl or chicken, bantam, duck, goose, guinea fowl, pheasant, turkey, peahen or peacock and other birds kept for the production of eggs or meat for domestic consumption;

**premises** include the following—

- (a) land (whether or not vacant);
- (b) the whole or part of a building or structure (whether of a permanent or temporary nature); and
- (c) vehicle;

**public place** means any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes park lands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including all lands which belong to or which are vested in, or are under the control or management of, the local government;

**reserve** means any land—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an otherwise unvested facility within section 3.53 of the Act.

**RSPCA** means the Royal Society for the Prevention of Cruelty to Animals (Inc) of Western Australia;

**residential area** means any land situated within a residential zone as classified by the local planning scheme and includes land predominantly used for residential purposes;

**rural area** means any land situated within a rural zone as classified by the local planning scheme;

**Schedule** means a schedule to this local law;

**small animal** means small animals kept as pets such as rabbits, ferrets, guinea pigs, rats, mice and any other domestic rodents;

**stable hand room** means a room or rooms used for occasional overnight occupation to facilitate husbandry to pregnant or sick animals;

**street** means any highway or thoroughfare which the public are entitled to use, and includes every part of the highway or thoroughfare, including the verge and other things including bridges and culverts appurtenant to it;

**thoroughfare** has the meaning given to it in the Act;

**townsite** means the townsite of Cuthbert, Elleker, Kalgan, Manypeaks, Redmond, South Stirling, Torbay, Wellstead and Youngs Siding which are—

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the Act.

**vehicle** includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden or driven, but excludes—
  - (i) a wheel-chair or any device designed for use by physically impaired persons;
  - (ii) a pram, a stroller or similar device; and
  - (iii) a boat;

**vermin** means rats, mice, flies, fleas, mites, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions;

**written law** has the same meaning given to it by section 5 of the *Interpretation Act 1984* and includes this local law;

**young birds** mean any pigeons under 24 days of age and, unless the contrary can be shown, a pigeon shall be deemed under this local law to be a young bird if it is without feathers on the flesh under the wings; and

**zoned as residential** means an area zoned under the local planning scheme where single-family or multi-family dwellings are located.

(2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the *Cat Act 2011*, *Local Government Act 1995* or the *Health (Miscellaneous Provisions) Act 1911* or the *Health Act 1911* unless the context requires otherwise.

(3) Where under this local law the local government is authorised to carry out actions or cause works to be undertaken as a consequence of the failure of any person to comply with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3, Subdivision 3 of the *Local Government Act 1995*.

(4) This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992* (Cth).

## PART 2—ANIMALS AND LIVESTOCK

### 2.1 Leaving Large Animal or Dog in Public Place or on Local Government Property

(1) A person must not leave a large animal or a dog in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorised to do so under a written law.

(2) A person contravenes subclause (1) where the large animal or dog is secured or tethered for a period exceeding 1 hour.

### 2.2 Prohibitions relating to Large Animal

(1) In subclause (2), owner in relation to a large animal includes—

- (a) an owner of it;
- (b) a person over the age of 16 years in possession of it;
- (c) a person over the age of 16 years who has control of it; and
- (d) a person over the age of 16 years who ordinarily occupies the premises where the animal is permitted to stay.

- (2) An owner of a large animal must not—
- (a) subject to subclause (2)(e), allow the large animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
  - (b) allow a large animal which has a contagious or infectious disease to be led, ridden or driven in a public place;
  - (c) train or race the large animal on a thoroughfare;
  - (d) ride, drive, lead or bring a large animal onto any reserve, park or foreshore, unless that person does so under a permit or under the authority of a written law; or
  - (e) ride, drive or lead any large animal onto, or over any lawn or garden planted or maintained in any thoroughfare, unless that person does so under a permit or under the authority of a written law.

### **2.3 Livestock Not to Stray**

The owner or person in charge of livestock shall not permit that livestock to stray or be at large in a street, public place or upon private property without the consent of the property owner.

### **2.4 Property to be Fenced**

- (1) The owner or occupier of a property on which livestock or a dog is kept shall cause the property or a portion of the property to be fenced in a manner capable of confining the livestock or dog, to that portion where the livestock or dog is kept.
- (2) The minimum fencing requirements to confine livestock in a rural or rural land zoned residential, shall be fence of posts and wire construction.

## **PART 3—HORSES AND LARGE ANIMALS**

### **3.1 Horse Exercise areas**

- (1) Council may set aside a reserve or foreshore or portion of a reserve or foreshore as an area upon which a person may ride or drive a horse or into which a person may bring a horse.
- (2) A person shall not ride, drive or bring a horse onto a reserve or foreshore or any part thereof that has not been set aside for that purpose.
- (3) A person shall not ride, drive, exercise or train a horse on any part of a reserve or foreshore set aside under subclause (1) faster than walking pace or in a manner so as to create a danger or become a nuisance to the public, to any person or to any animal.
- (4) Subclause (3) does not apply to—
  - (a) The training of horses between dawn and 9.00am; and
  - (b) The wading or swimming of horses between—
    - (i) 9.00am and 11.00am; and
    - (ii) 1.00pm and 3.00pm.
- (5) A person shall not ride, drive or bring a horse onto a reserve or foreshore or any part thereof that is set aside specifically for the exercise of dogs.
- (6) A person may exercise a dog on an area of reserve or foreshore set aside as a horse exercise area provided the dog remains under full control on a leash at all times.
- (7) Horse Exercise Areas are listed at Schedule 2.

### **3.2 Fouling of Streets and Public Places**

Any person liable for the control of a horse who permits that horse to excrete on any public place or on any land within the district without the consent of the occupier of that land commits an offence unless the excreta is removed forthwith and disposed of either on private land with the written consent of the occupier or in such a manner as Council or an Authorised Person may approve.

### **3.3 Keeping a Miniature Horse**

- (1) An owner or occupier of a premises may keep a sterilised miniature horse on land of not less than 1000m<sup>2</sup> in area, provided it is registered with the local government and the approved annual registration fee is paid.
- (2) An owner or occupier of premises must—
  - (a) not keep more than one miniature horse on land zoned residential, without the written approval of the local government; and
  - (b) not permit a miniature horse within 10m of any house.
- (3) The local government may prohibit the keeping of a miniature horse on any land or may state the conditions under which a miniature horse may be kept.

### **3.4 Keeping of Large Animals**

An owner or occupier of a premises shall—

- (a) Not keep a large animal on any land less than 2020m<sup>2</sup> in area;
- (b) Not keep any large animal within 9 metres of a habitable room, shop, church or any food premises.

### 3.5 Keeping of Pigs

- (1) Except for a miniature pig, no lot shall keep a pig or pigs unless every portion of the area where the pig or pigs are kept is—
  - (a) greater than 200 metres from the lot boundary of the lot upon which the pig or pigs are to be situated; and
  - (b) greater than 100 metres from any dwelling house, dairy or food premises.
- (2) The local government may prohibit the keeping of a miniature pig on any land or state the conditions under which they may be kept.
- (3) A person may keep one miniature pig in any residential area provided it is registered with the local government and the approved annual registration fee is paid.
- (4) The occupier of any premises where a miniature pig is kept must—
  - (a) only keep a sterilised animal and retain written proof of its sterilisation;
  - (b) confine the animal on the property at all times;
  - (c) ensure the animal does not cause a nuisance to any neighbour regarding noise, dust or odour; and
  - (d) maintain documentary evidence that the animal's veterinary treatment against roundworm and tapeworm is current.

### 3.6 Stables

- (1) The owner or occupier of any land where a stable is erected shall—
  - (a) Not permit a stable within 9 metres of a house or other building;
  - (b) Have a minimum floor area of 12m<sup>2</sup> per animal;
  - (c) Ensure the stable has walls and a roof, constructed of impervious material;
  - (d) Have on all sides of the building between the walls and the roof, a clear opening of at least 50 millimetres in height; and
  - (e) Provide a floor, which shall have an upper surface at least 75 millimetres above ground level.
- (2) The owner or occupier of a premises where a stable is located shall—
  - (a) Maintain the stable in a clean condition and when directed by an Environmental Health Officer, clean, wash and disinfect it;
  - (b) Keep all parts of the stable free from flies; and
  - (c) When directed by an Environmental Health Officer, spray the stable, or such parts as may be indicated, with a residual insecticide.

### 3.7 Stable hand Room

The owner or occupier of a premises shall not permit a habitable room, including a stable hand's room, to open directly into a stable area.

### 3.8 Manure Receptacle

- (1) An owner or occupier of a premises where a large animal or miniature pig is kept shall—
  - (a) Provide in a convenient position, a receptacle for manure, which is constructed of smooth, impervious, durable, easily cleanable materials and, provided with a tightfitting cover, and with no part of the receptacle base being lower than the surface of the adjoining ground;
  - (b) Keep the lid of the receptacle closed except when manure is being deposited or removed;
  - (c) Cause the receptacle to be emptied at least once a week and more often as necessary to prevent it becoming offensive or a breeding place for flies or other insects;
  - (d) Keep the receptacle so far as possible free from flies or other insects by spraying with a residual insecticide or other effective means; and
  - (e) Cause all manure produced on the premises to be collected, stored or removed so as to not cause a nuisance or present a hazard.
- (2) This clause shall not apply to any rural or rural land zoned residential.

## PART 4—PIGEONS

### 4.1 Certificate of Registration

- (1) A person shall not keep pigeons on any land in the district without having first obtained a certificate of registration from an Authorised Person.
- (2) A certificate of registration shall be valid from its date of issue until the next 30th June.

### 4.2 Application for Certificate of Registration

- (1) An application for a certificate of registration shall be—
  - (a) Lodged by the applicant on the form approved by Council from time to time;
  - (b) Lodged with specifications, site and construction plans of proposed cages, enclosures or lofts; and
  - (c) Lodged with the registration fees set by Council.
- (2) Clause 4.2(1)(b) shall not apply to any person keeping pigeons before these local laws were made.



#### 4.3 Adjoining Owners to be consulted

Prior to being granted a certificate of registration by the local government, the applicant shall seek and provide to the local government the written opinion of all owners and occupiers whose land is adjacent to the land owned by the applicant.

#### 4.4 Approval Limitations

- (1) Pigeons shall not be kept within a caravan park or on any land on which is situated a grouped dwelling or multiple dwellings except for land on which 2 grouped dwellings are permitted; and
- (2) Unless previously approved by Council prior to this local law coming into effect, pigeons shall not be kept on any land which has an area of less than 1000m<sup>2</sup>.

#### 4.5 Duties of Certificate Holder

The holder of a certificate of registration to keep pigeons shall—

- (a) Keep all pigeons confined continuously in cages, enclosures and lofts approved by an Authorised Person except that homing pigeons and racing pigeons registered in accordance with this local law may be released in accordance with this local law;
- (b) Keep all cages, enclosures and lofts and their immediate surrounds clean and maintained in good order and condition at all times and the minimum standard to be adhered to shall be that which is specified in the Code of Practice—Pigeon Keeping; and
- (c) Dispose of all loft litter by immediate burial or by being bagged and deposited in a household bin to ensure no nuisance occurs.

#### 4.6 Limit on the Number of Pigeons

- (1) Subject to subclause (2), the maximum number of pigeons which shall be kept on land the subject of a certificate of registration pursuant to each certificate of registration shall not exceed 20, excluding young birds.
- (2) A person who on or before 30 June each year produces to an Authorised Person, satisfactory proof that the person is a current financial member of a recognised incorporated racing pigeon body, or a registered pigeon fancier, may be permitted by an Authorised Person to keep up to 150 pigeons, excluding young birds, in any residential, rural or rural area zoned residential.

#### 4.7 Cage, Enclosure or Loft requirements

- (1) An approved cage, enclosure or loft used to house pigeons shall aesthetically blend with its surrounds, be constructed of new materials and shall be constructed to the following minimum requirements—
  - (a) The base floor of any loft shall be of 50mm thick concrete;
  - (b) In the case of an elevated loft the suspended floor shall be constructed and maintained in accordance with the requirements in the Code of Practice;
  - (c) Cladding of a loft, including the roof shall be of smooth fibro cement sheeting, sheet metal or other smooth material;
  - (d) Except as provided in paragraph (e), a loft height shall not exceed 2.4 metres at any point when measured from ground level; and
  - (e) Where a loft has a gable roof the loft height shall not exceed 3 metres at any point when measured from ground level.
- (2) A cage, enclosure or loft shall not be located nearer than—
  - (a) 1.2 metres from the boundary of any land adjacent to the land, subject of an application;
  - (b) 9 metres from any dwelling house, church, school room, hall, factory, dairy or food premises;  
or
  - (c) 9 metres from any road reserve or street.

#### 4.8 Exercise of Pigeons

- (1) A person who is approved to keep registered homing pigeons or racing pigeons may only release such homing pigeons or racing pigeons for exercise between the hours set out in the Code of Practice, unless otherwise authorised by Council or an Authorised Person.
- (2) A person shall not release more than 60 registered homing or racing pigeons for exercise or training at any one time.

#### 4.9 Alteration, Cancellation or Refusal of Certificate of Registration

- (1) At any time an Authorised Person may amend the conditions contained in or relating to a certificate of registration and without limiting the generality of the same, where any complaint of a nuisance is received, the Authorised Person may vary the hours for release of pigeons and impose any other conditions deemed necessary to minimise any nuisance from the keeping of pigeons or any associated activity.
- (2) An Authorised Person may cancel, refuse to approve or refuse to renew a certificate of registration for any one or more of the following reasons—
  - (a) The land is not maintained in accordance with this local law;
  - (b) The cages, enclosures or loft have fallen into disrepair, are unclean or infested with vectors of disease;
  - (c) The pigeons are being released outside the times permitted in clause 4.8;

- (d) A condition imposed in accordance with this local law or a certificate of registration has not been complied with in the time limits set out for doing so;
- (e) The applicant or holder of the certificate of registration as the case may be, has two or more convictions under this local law; or
- (f) Non-payment of registration fees.

## **PART 5—KEEPING OF BEES**

### **5.1 Limitation on numbers and location of Hives**

- (1) A person must not keep or permit the keeping of bees on a lot except in accordance with this Part and state legislation.
- (2) A person may keep bees on a lot zoned for agricultural use.
- (3) The local government may, upon written application, consent, with or without conditions, to a person keeping up to 2 beehives on a lot which is not zoned for agricultural purposes.
- (4) A person must comply with any conditions imposed by the local government under subclause (3).

### **5.2 Restrictions on keeping Bees in Hives**

A person must not keep or permit the keeping of bees in a hive on a lot unless, at all times—

- (a) an adequate and permanent supply of water must be provided within 10m of the beehives; and
- (b) the beehive is kept—
  - (i) at least 10m from any public place;
  - (ii) at least 5m from the boundary of the lot; and
  - (iii) the beehive is screened from public view.

### **5.3 Bees which cause a nuisance not to be kept**

- (1) A person must take reasonable measures to not keep, or permit the keeping of bees, which cause a nuisance.
- (2) Whenever in the opinion of the local government, the keeping of bees is causing a nuisance, the local government may give written notice to an owner or occupier requiring the removal of any bees or beehives from the lot within the time specified in the notice.

## **PART 6—SMALL ANIMALS**

### **6.1 General**

The owner or occupier of a premises, in or on which an animal or bird is kept shall—

- (a) Keep the premises free from excrement, filth, food waste and all other matter which is or likely to become offensive or injurious to health or to attract rats, vermin or insects;
- (b) When so directed by an Environmental Health Officer, clean and disinfect the premises;
- (c) Keep the premises, so far as possible, free of flies and when directed by an Environmental Health Officer, spray the premises with a residual insecticide or use any other effective means to kill and repel flies; and
- (d) Ensure the animal or bird kept is not causing a nuisance or is injurious, offensive or dangerous to health.

### **6.2 Keeping of Small Animals**

A person who keeps a small animal or permits a small animal to be kept must—

- (a) not permit that small animal to stray or to be at large in a street, public place or upon private property without the consent of the property owner;
- (b) ensure that the small animal is kept in a properly constructed and securely fastened structure or enclosure.

### **6.3 Cleanliness**

The owner or occupier of premises in or on which a dog, cat, small animal, large animal or other animal is kept must take reasonable measures to—

- (a) keep the premises free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract rats, vermin or insects;
- (b) when so directed by an Authorised Person, clean and disinfect the premises; and
- (c) keep the premises, so far as possible, free of flies or vermin and when directed by an Authorised Person, spray the premises with a residual insecticide or use any other effective means to kill and repel flies or vermin.

### **6.4 Disposal of Dead Animals**

- (1) Subject to subclause 6.5, the owner or occupier must immediately remove and dispose the carcass of any dead livestock, miniature horse or pig, dog, cat, poultry, pigeon or bird at an approved disposal site.
- (2) An owner or a person having care of any animal or bird that dies or is killed in a public or private place must immediately remove and dispose of the carcass of the dead animal or bird at an approved disposal site.

### 6.5 Burial of Animals

- (1) An owner or operator of a veterinary practice where dead animals are kept for more than 12 hours, shall refrigerate the carcass prior to its removal and disposal, at an approved disposal site.
- (2) The operators of commercial poultry farms, licensed piggeries and similar intensive animal or bird farming shall not dispose of any dead animals or birds on their premises without written approval from Council or an Authorised Person.
- (3) Owners and occupiers of properties on land zoned for residential use, who occasionally need to bury an animal on their property, shall cover the carcass with lime before burial.
- (4) Owners and occupiers of properties on land zoned for residential use, other than a veterinary practice, on which there is a dead animal shall immediately remove the carcass for its disposal at an approved disposal site.

## PART 7—POULTRY, PIGEONS AND MISCELLANEOUS BIRDS

### 7.1 Limitation on Numbers of Poultry and Pigeons

- (1) In this clause, Affiliated Person means a person who is a member of a properly constituted Poultry or Pigeon Club.
- (2) An owner or occupier of land—
  - (a) who is not an Affiliated Person, must not keep a total of more than 6 poultry and 6 pigeons; and
  - (b) who is an Affiliated Person, must not keep a total of more than 50 pigeons and 12 poultry, on any one lot of land.
- (3) An owner or occupier of land must not keep or suffer to remain in a residential area a rooster, turkey, goose, peacock or peahen.

### 7.2 Conditions of Keeping Poultry

A person who keeps poultry or permits poultry to be kept shall ensure that—

- (a) they provide a properly constructed and securely fastened structure or coop;
- (b) all structures within which poultry are kept are maintained at all times in a clean condition;
- (c) the structure has an impervious floor to permit washing down;
- (d) subject to clause (a) poultry that have been released to free-range are otherwise confined to the property;
- (e) the poultry do not cause or be a nuisance to any person; and
- (f) all feed for poultry be stored in vermin proof containers.

### 7.3 Conditions of Keeping Pigeons

A person who keeps, or permits to be kept, pigeons or doves must ensure that—

- (a) no pigeon is able to approach within 10m of a dwelling, public building, food premises or public place;
- (b) all feed for the pigeons is stored in vermin proof containers;
- (c) except where homing pigeons are freed for exercise, the pigeons or doves are kept in a properly constructed structure or enclosure that—
  - (i) is located so that no pigeon is able to approach within 1m of any boundary;
  - (ii) does not exceed 2m in height;
  - (iii) there is a floor beneath the roofed area of the structure or enclosure which is constructed of smooth, impervious material and with a gradient of at least 1 in 50 to the front of the structure or enclosure;
  - (iv) the structure and enclosure is kept in a clean condition and good repair at all times; and
  - (v) is in a yard having an otherwise unobstructed area of at least 30m<sup>2</sup>.

### 7.4 Conditions of Keeping a Miscellaneous Bird

A person who keeps, or permits to be kept a miscellaneous bird must ensure that—

- (a) no miscellaneous bird is able to approach within—
  - (i) 1m of any boundary;
  - (ii) 1m of a residential house on any other lot; and
  - (iii) 10m of a public building, food premises or public place.
- (b) all feed for the birds is stored in vermin proof containers;
- (c) the miscellaneous bird is kept in a properly constructed structure or enclosure that—
  - (i) does not exceed 2m in height;
  - (ii) has a floor beneath the roofed area of the structure which is constructed of smooth, impervious material and with a gradient of at least 1 in 50 to the front of the structure;
  - (iii) the structure and enclosure is kept in a clean condition and good repair at all times; and
  - (iv) is in a yard having an otherwise unobstructed area of at least 10m<sup>2</sup>.

### 7.5 Removal of Non-Conforming Structure or Enclosure

If a structure or enclosure is used for the keeping of poultry, pigeons, doves or miscellaneous birds contrary to the provisions of clauses 7.2, 7.3 or 7.4, the local government may give written notice to the owner or occupier to remove it.

### 7.6 Restrictions on Pigeons Nesting, Perching or Habitually Feeding

The local government may give written notice to an owner or occupier of land or a house in or on which pigeons are, or are in the habit of, nesting, perching or habitually feeding to take adequate steps to prevent them continuing to do so.

### 7.7 Restrictions on Feeding of Birds

A person must not feed a pigeon or miscellaneous bird—

- (a) so as to cause a nuisance, or
- (b) with a food or substance that is not a natural food of a pigeon or miscellaneous bird.

### 7.8 Cleanliness of Poultry, Pigeon and Miscellaneous Bird Structures

The owner or occupier of premises where poultry, pigeons or miscellaneous birds are kept must take reasonable measures to—

- (a) keep the structure or enclosure in a clean condition, free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract rats, vermin or insects;
- (b) clean and disinfect the structure or enclosure, when so directed by an Authorised Person; and
- (c) keep the structure or enclosure, so far as possible, free of flies or vermin and when directed by an Authorised Person, spray the structure or enclosure with a residual insecticide or use any other effective means to kill and repel flies or vermin.

### 7.9 Nuisance caused by Poultry, Pigeons and Miscellaneous Birds

(1) Notwithstanding any of the provisions of clauses 7.1, 7.2, 7.3, 7.4, and 7.8, where any poultry, pigeons or miscellaneous birds has or have, in the opinion of a local government's Environmental Health Officer, been found to have been the cause of—

- (a) a nuisance as defined by this local law, or
- (b) the emission of unreasonable noise as defined by the *Environmental Protection Act 1986*,

an Authorised Person may by notice in writing direct the owner or occupier of the land on which the poultry, pigeons, bird or birds is or are kept to take such action as the Authorised Person deems necessary, within a time specified in the notice, to prevent the nuisance or the emission of unreasonable noise.

(2) The notice referred to in subclause (1) may require removal of a specified bird or specified birds, or specified species of birds, from the land, irrespective of whether the local government has previously issued a permit authorising the keeping of such a bird or such birds.

## PART 8—CATS

### 8.1 Interpretation

(1) In this Part, unless the context otherwise requires—

**Act** means the *Cat Act 2011*;

**cat** means an animal of the species *felis catus* or a hybrid of that species;

**cat management facility** means—

- (a) a facility operated by a local government that is, or may be, used for keeping cats;
- (b) a facility for keeping cats that is operated by a person or body prescribed in the Act; or
- (c) a facility for keeping cats that is operated by a person or body approved in writing by a local government;

**cattery** means any premises where more than 3 cats are boarded, housed or trained temporarily, usually for profit, and where the occupier of the premises is not the ordinary keeper of the cats;

**effective control** in relation to a cat means any of the following methods—

- (a) held by a person who is capable of controlling the cat;
- (b) securely tethered;
- (c) secured in a cage; or
- (d) any other means of preventing escape;

**owner** in relation to a cat means any of the following persons—

- (a) the owner of the cat as defined in the Act;
- (b) a person by whom the cat is ordinarily kept;
- (c) a person who has or appears to have immediate custody or control of the cat;
- (d) a person who keeps the cat, or has the cat in her or his possession for the time being;
- (e) a person who occupies any premises in which a cat is ordinarily kept or ordinarily permitted to live; or

- (f) a holder of a licence which relates to the cat; or
  - (g) the holder of an exemption issued in relation to the cat.
- (2) In this Part, and for the purposes of applying the definition of cattery in Part 8—a cat does not include a cat less than 6 months old.

### **8.2 Keeping of Cats for which a licence is required**

- (1) Subject to subclause (3) and the *Cat (Uniform Local Provisions) Regulations 2013*, a person is required to have a licence to—
- (a) keep more than 3 cats; or
  - (b) use any premises as a cattery.
- (2) A person who breeds cats may, with the written approval of the local government, keep up to 6 adult breeding cats on any land in the district, subject to—
- (a) each cat being permanently confined in an effective cage system on the property; and
  - (b) under such terms and conditions that may be imposed by the local government from time to time.
- (3) A licence is not required under subclause (1) if the premises concerned are—
- (a) a refuge of the RSPCA;
  - (b) a cat management facility which has been approved by the local government; and
  - (c) a veterinary surgery.

### **8.3 Cleanliness**

The owner or occupier of a premises where a cat or cats are kept must take reasonable measures to—

- (a) keep the premises free from excrement, filth, food waste and all other matter that is likely to become offensive or injurious to health or to attract rats, vermin or insects;
- (b) when so directed by an Authorised Person, clean and disinfect the premises; and
- (c) keep the premises, so far as possible, free of flies and when directed by an Authorised Person, spray the premises with a residual insecticide or use any other effective means to kill and repel flies.

### **8.4 Application for licence**

An application for a licence under clause 8.2 must be—

- (a) made in writing, by an occupier of the premises in relation to those premises;
- (b) in a form approved by the local government, describing and specifying the number of cats to be kept on the premises;
- (c) accompanied by a brief reason and justification for the request;
- (d) accompanied by the plans of the premises to which the application relates, to the satisfaction of the local government;
- (e) accompanied by the consent in writing of the owner of the premises, where the occupier is not the owner of the premises to which the application relates; and
- (f) accompanied by the application fee for the licence determined by the local government from time to time.

### **8.5 Refusal to determine application**

The local government may refuse to determine an application for a licence if it is not made in accordance with clause 8.4.

### **8.6 Factors relevant to determination of application**

- (1) In determining an application for a licence the local government may have regard to—
- (a) the reasons and justification provided for the request;
  - (b) the physical suitability of the premises for the proposed use;
  - (c) the suitability of the zoning of the premises under any local planning scheme which applies to the use of the premises;
  - (d) the environmental sensitivity and general nature of the location surrounding the premises for the proposed use;
  - (e) the structural suitability of any enclosure in which any cat is to be kept;
  - (f) the likelihood of a cat causing a nuisance, inconvenience or annoyance to the occupiers of adjoining land;
  - (g) the likely effect on the amenity of the surrounding area of the proposed use;
  - (h) the likely effect on the local environment, including any pollution or other environment damage which may be caused by the use;
  - (i) any submissions received under subclause (2) within the time specified in subclause (2); and
  - (j) such other factors which the local government may consider to be relevant in the circumstances of the particular case.
- (2) The local government may require an applicant to—
- (a) consult with other nearby landowners; and

- (b) advise other adjoining landowners that they may make submissions to the local government on the application for the licence within 14 days of receiving that advice, before determining the application for the licence.
- (3) The local government may specify the extent of the consultation with nearby residents and may specify which properties should be consulted.

### **8.7 Decision on application**

- (1) The local government may—
  - (a) approve an application for a licence, as it was submitted, in which case it must approve it subject to the conditions in clause 8.8 and may approve it subject to any other conditions it considers fit;
  - (b) approve an application, but specify an alternative number of cats permitted to be housed at the address; or
  - (c) refuse to approve an application for a licence.
- (2) If the local government approves an application under subclause (1), then it must issue to the applicant a licence in the form determined by the local government.
- (3) If the local government refuses to approve an application under subclause (1), then it must advise the applicant accordingly in writing.

### **8.8 Conditions**

- (1) Every licence is issued subject to the following conditions—
  - (a) each cat kept on the premises to which the licence relates must comply with the requirements of the Cat Act;
  - (b) each cat must be contained on the premises unless under the effective control of a person;
  - (c) the licence holder will provide adequate space for the exercise of the cats;
  - (d) the premises must be maintained in good order and in a clean and sanitary condition; and
  - (e) those conditions contained in Schedule 3.
- (2) In addition to the conditions subject to which a licence is to be issued under this clause, a licence may be issued subject to other conditions, as the local government considers appropriate.
- (3) The licence holder who fails to comply with a condition of a licence commits an offence.

### **8.9 Duration of licence**

Unless otherwise specified, in a condition on a licence, a licence commences on the date of issue and is valid for a period of 12 months from the date of issue unless and until—

- (a) it is revoked; or
- (b) the licence holder ceases to reside at the premises to which the licence relates.

### **8.10 Revocation**

The local government may revoke a licence if the licence holder fails to observe any provision of this local law or a condition of a licence.

### **8.11 Licence not transferable**

A licence is not transferable either in relation to the licence holder or the premises.

### **8.12 Licence to be kept at the premises and available for view**

- (1) A licence issued by the local government must be kept at the premises to which it applies and must be provided to an Authorised Person on demand.
- (2) In the case of a registered cattery, the licence must be displayed in a prominent place within the premises.

## **PART 9—MISCELLANEOUS**

### **9.1 Fees and Charges**

All fees and charges applicable under this local law shall be as determined by Council from time to time in accordance with sections 6.16 to 6.19 of the Act.

### **9.2 False or Misleading Statement**

A person shall not make a false or misleading statement in connection with any application, requirement or demand under this local law.

### **9.3 Limit on Liability**

A person, owner, occupier or licensee is not entitled to make a claim by way of damages or otherwise, against an Authorised Person, Council employee, Council appointed subcontractor or other person authorised by Council; to enter the land and carry out all or part of the works and do all things necessary that the owner, occupier or licensee was required to do to comply with this local law.

### **9.4 Appeal and review rights**

When the local government makes a decision as to whether it will—

- (a) grant a person a permit, licence or certificate of registration under this local law; or

- (b) renew, vary, or cancel a permit, licence or certificate of registration that a person has under this local law, the provisions of Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision; or
- (c) give a person a notice, the provisions of Division 1 of Part 9 of the Act and regulations 33 of the *Local Government (Functions and General) Regulations 1996* apply to that decision.

## PART 10—ENFORCEMENT

### 10.1 Offences and Penalties

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

### 10.2 Modified Penalties and Offence Description

- (1) An offence against any provision of this local law is a prescribed offence for the purposes of section 9.16 (1) of the Act.
- (2) The amount of the modified penalty is the amount specified in the fourth column of Schedule 1.
- (3) Before giving an infringement notice to a person in respect of the commission of a prescribed offence, an Authorised Person should be satisfied that—
  - (a) commission of the prescribed offence is a relatively minor matter; and
  - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

### 10.3 Form of Notices

For the purposes of this local law—

- (a) the form of the infringement notice referred to in section 9.13 of the Act is to be in or substantially in the form of Form 1 of Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (b) the form of the notice referred to in section 9.17 of the Act is to be in the form of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (c) the form of the infringement withdrawal notice referred to in section 9.20 of the Act is to be in the form of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (d) for the purposes of Part 8, the issue of infringement notices, their withdrawal and the payment of modified penalties are dealt with in Division 4 of Part 4 of the *Cat Act 2011*;
- (e) for the purposes of Part 8, an infringement notice given under the Act is to be in the form of Form 6 of Schedule 1 of the *Cat Regulations 2012*;
- (f) for the purposes of Part 8, a notice sent under the *Cat Act 2011* withdrawing an infringement notice is to be in the form of Form 7 of Schedule 1 of the *Cat Regulations 2012*.

## PART 11—DETERMINATIONS IN RESPECT OF HORSE EXERCISE AREAS

### 11.1 Determinations as to use of local government property

- (1) The local government may make a determination in accordance with clause 11.2—
  - (a) setting aside specified local government property for the pursuit of horse exercise in clause 3.1(1);
  - (b) prohibiting a person from pursuing activities referred to in clause 3.1(1) on specified local government property;
  - (c) as to the matters in clauses 3.1(2) and 3.1(3); and
  - (d) as to any matter ancillary or necessary to give effect to a determination.
- (2) The determinations in Schedule 2—
  - (a) are to be taken to have been made in accordance with clause 11.2;
  - (b) may be amended or revoked in accordance with clause 11.6; and
  - (c) have effect on the commencement day.

### 11.2 Procedure for making a determination

- (1) The local government is to give local public notice of its intention to make a determination.
- (2) The local public notice referred to in subclause (1) is to state that—
  - (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
  - (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
  - (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.

- (3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to—
- (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
  - (b) amend the proposed determination, in which case subclause (5) will apply; or
  - (c) not continue with the proposed determination.
- (4) If submissions are received in accordance with subclause (2)(c) the Council is to—
- (a) consider those submissions; and
  - (b) decide—
    - (i) whether or not to amend the proposed determination; or
    - (ii) not to continue with the proposed determination.
- (5) If the Council decides to amend the proposed determination, it is to give local public notice—
- (a) of the effect of the amendments; and
  - (b) that the proposed determination has effect as a determination on and from the date of publication.
- (6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.
- (7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).
- (8) A decision under subclause (3) or (4) is not to be delegated by the Council.

### 11.3 Discretion to erect sign

The local government may erect a sign on local government property to give notice of the effect of a determination which applies to that property.

### 11.4 Determination to be complied with

A person shall comply with a determination.

### 11.5 Register of determinations

- (1) The local government is to keep a register of determinations made under clause 11.1, and of any amendments to or revocations of determinations made under clause 11.6.
- (2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

### 11.6 Amendment or revocation of a determination

- (1) The Council may amend or revoke a determination.
- (2) The provisions of clause 11.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.
- (3) If the Council revokes a determination it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

## *Schedule 1* PRESCRIBED OFFENCES

[Clause 10.2]

Item No.	Clause No.	Nature of Offence	Modified Penalty
1	3.2	Failure to clean up horse manure	\$250.00
2	8.2(1)	Failure of an owner to hold a licence to keep three or more cats or to use premises as a cat management facility	\$250.00
3	8.8(3)	Breach of a condition of a licence	\$250.00
4		All other offences not specified	\$150.00



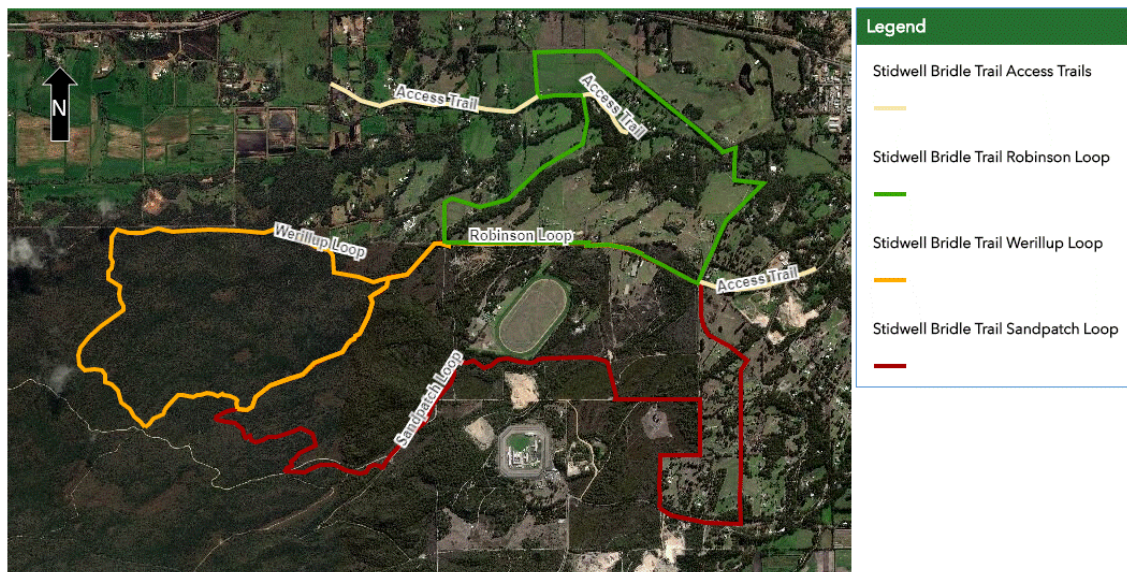
**Schedule 2****HORSE EXERCISE AREA DETERMINATIONS**

(1) All that section of Reserve No. 1474 (Middleton Beach) as shown delineated in the below—



(2) The Stidwell Bridle Trail consists of three clearly signposted loops that start at the Albany Equestrian Centre on Roberts Road—

- (a) **ROBINSON LOOP**—7.5km: This loop winds through Robinson Estate using tree lined road verges and undeveloped road reserves to avoid on-road riding.
- (b) **WERILLUP LOOP**—11km: Sandy bush tracks lead to the summit of Werillup Hill where a shelter, watering trough and hitching rail provide a comfortable rest stop for riders and horses.
- (c) **SAND PATCH LOOP**—12km: This loop travels along wide road verges to reach wildflower-rich areas to the south and west. The trail crosses the road leading to the popular fishing spot at Sandpatch Beach.



*Schedule 3*

## ADDITIONAL CONDITIONS APPLICABLE TO KEEPING OF CAT LICENCE

[Clause 8.8]

**PART 1: Licence to keep three or more cats Additional Conditions**

- (1) The owner will have during the term of the licence adequate space for the exercise of the cats.
- (2) In the case of a multiple dwelling, where there is no suitable dividing fence, the written consent to the application for a licence of the occupier of the adjoining multiple dwellings has been obtained.
- (3) Without the consent of the local government, the licence holder will not substitute or replace any cat once that cat—
  - (a) dies; or
  - (b) is permanently removed from the premises.

**Part 2: Licence to use premises as a cat management facility Additional Conditions**

- (1) All building enclosures must be structurally sound, have impervious flooring, be well lit and ventilated and otherwise comply with all legislative requirements.
- (2) There is to be a feed room, wash area, isolation cages and maternity section.
- (3) Materials used in structures are to be approved by the local government.
- (4) The internal surfaces of walls are, where possible, to be smooth, free from cracks, crevices and other defects.
- (5) All fixtures, fittings and appliances are to be capable of being easily cleaned, resistant to corrosion and constructed to prevent the harbourage of vermin.
- (6) Washing basins and running hot and cold water are to be available to the satisfaction of the local government.
- (7) The maximum number of cats to be kept on the premises stated on the licence is not to be exceeded.
- (8) An entry book is to be kept recording in respect of each cat the—
  - (a) date of admission;
  - (b) date of departure;
  - (c) breed, age, colour and sex; and
  - (d) the name and residential address of the owner.
- (9) The entry book is to be made available for inspection on the request of an Authorised Person.
- (10) Enclosures are to be thoroughly cleaned each day and disinfected at least once a week to minimise disease.
- (11) No sick or ailing cat is to be kept on the premises.

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Dated this 12th day of August, 2020.

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

DENNIS WELLINGTON, Mayor.  
ANDREW SHARPE, Chief Executive Officer.

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