13.1 NOTICE OF MOTION - MAYOR XAMON - ANIMAL LOCAL LAW - CAT CONTAINMENT

TRIM Ref: **D25/11897**

Attachments: **Nil**

That Council REQUESTS the Chief Executive Officer to:

1. **Seek further additional external legal advice on whether cat containment provisions are currently enabled within the *Cat Act 2011*;**

2. **Request that the State Government bring forward the review of the *Cat Act 2011* to include provisions to enable Local Governments to enact Local Laws with cat containment provisions;**

3. **Present this advice to Council for consideration to go out for consultation on whether the Animal Local Law 2022 should be amended accordingly; and**

4. **Consider further consultation on amending the Animal Local 2022 to include provisions for cat containment, pending the additional external legal advice received.**

REASON

This notice of motion is to promote responsible cat ownership and to protect the native wildlife found within the parks and reserves within the City.

It is essential that we prepare now to ensure our community can fully benefit from the environmental advantages that come with cat containment provisions.

By acting proactively, we position ourselves as leaders in responsible cat ownership, enhancing our local amenity and promoting environmental sustainability in our parks and reserves.

ADMINISTRATION COMMENTS

WALGA is advocating for the State Government to commence the review of the Cat Act.

On 7 March 2017, Council resolved to review the City of Vincent Health Local Law 2004 (Health Local Law) *"to consider the easing of provisions relating to restrictions on keeping poultry"*. The Health Local Law is enabled by the *Health (Miscellaneous Provisions) Act 1911*. This Act will be superseded during Stage 5 of the *Public Health Act 2016* (Public Health Act) implementation, which is now scheduled for 2022-2023 after being delayed due to the COVID-19 pandemic. Once this has occurred a full review of the Health Local Law would be required so that it aligns with the *Public Health Act*.

Since this decision, there was a proposal for cat requirements to be included within a local law, in the same way dog requirements are captured in the City of Vincent Dog Local Law 2007 (Dog Local Law). It was considered that all animal-based requirements could be included in one local law.

This resulted in the proposal to develop and introduce an Animal Local Law, which would be formed under the *Local Government Act 1995*. This local law would consolidate all animal-based requirements from existing local laws. This approach has been implemented by other local governments.

At its 12 October 2021 Meeting (Item 9.3) Council authorised the Chief Executive Office to provide local public notice of:

1. The repeal of the City of Vincent Dog Local Law 2007;
2. The repeal of Divisions 2, 3, and 4 of Part 5, and Division 6 of Part 6 of the City of Vincent Health Local Law 2004; and
3. The draft City of Vincent Animal Local Law 2021.

The submission period for the public notice was between 27 November 2021 – 28 January 2022. The City received 249 submissions during the consultation period.

Several minor changes were made to the draft *Animal Local Law 2021* following consideration of public submissions and advice from the Department of Local Government, Sport and Cultural Industries (DLGSC).

There were a significant number of submissions received during the consultation period. Relating to cats, most common feedback was for the request for all public areas to be declared a cat prohibited area, and for cats to be restricted and confined to their own property, including the introduction of a cat curfew.

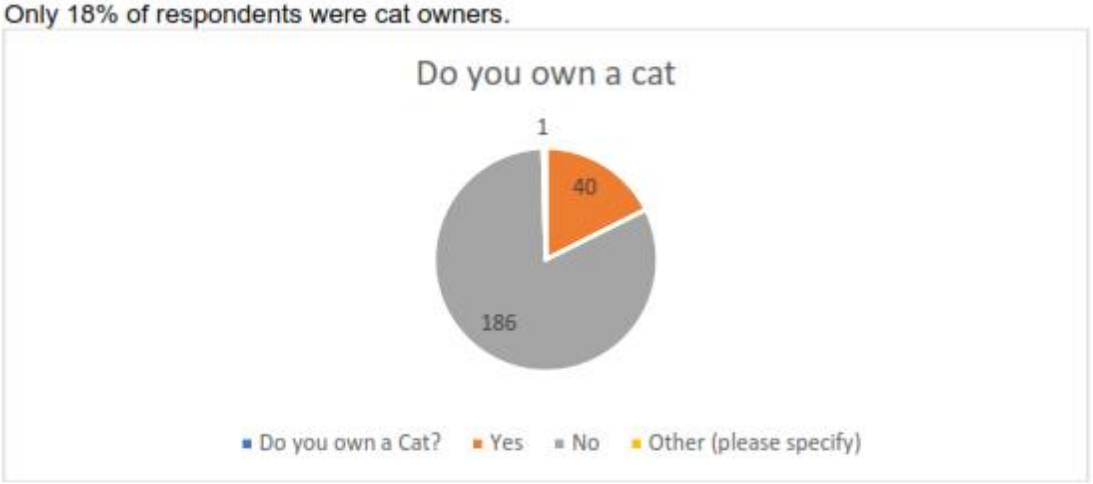
These suggestions were not able to be facilitated as they were considered beyond what the City is empowered to do under the Cat Act. Five (5) Reserves were approved as cat prohibited areas, which were:

- Hyde Park;
- Britannia Reserve;
- Smith Lakes Reserve;
- Robertson Park; and
- Banks Reserve (now Warndoolier)

A summary of the responses to Cats can be seen below

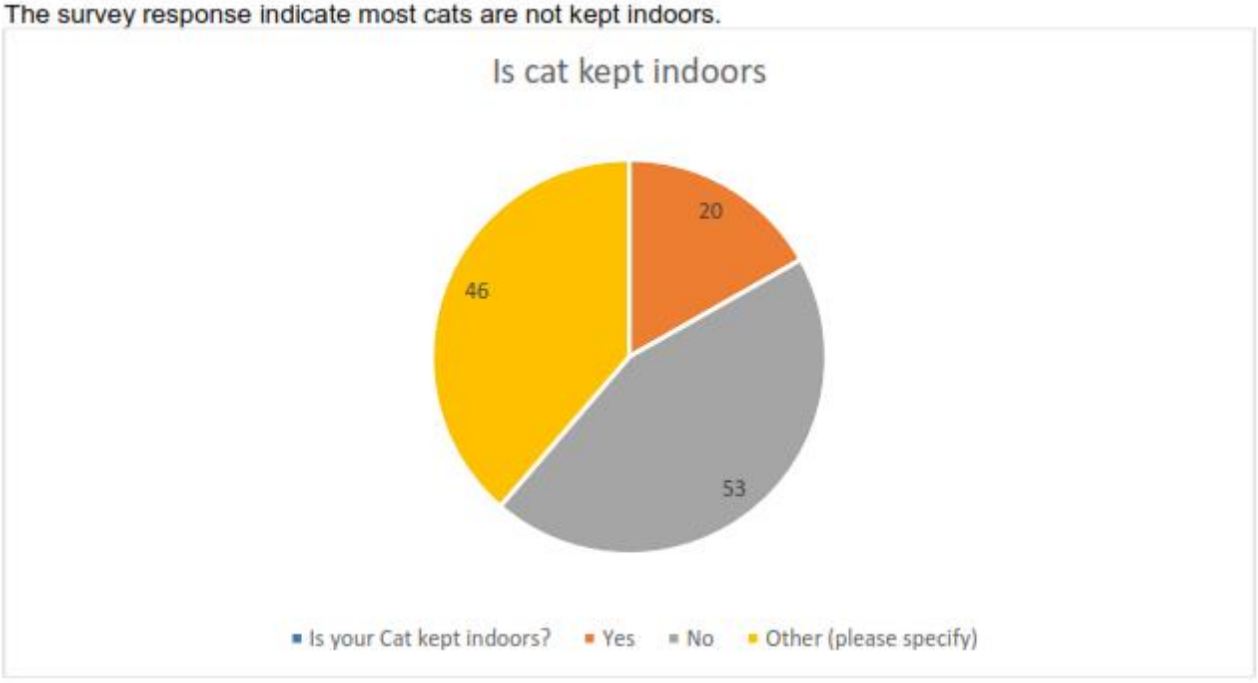
Question 11. Do you own a cat?

Only 18% of respondents were cat owners.



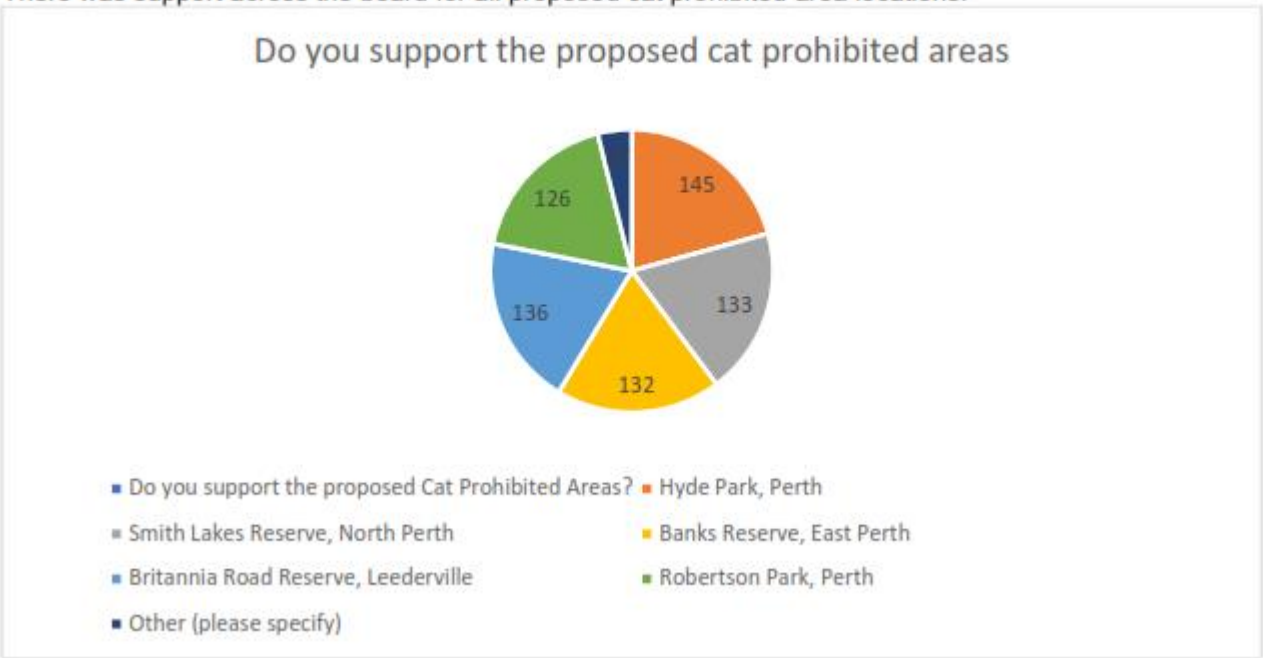
Question 12. Is your cat kept indoors?

The survey response indicate most cats are not kept indoors.



Question 13. Do you support the proposed cat prohibited areas?

There was support across the board for all proposed cat prohibited area locations.



Council, then at its 13 December 2022 meeting adopted the creation of this Animal Local Law.

The Animal Local Law 2022 was published in the Government Gazette on 3 February 2023, edition No. 12.

Local public notice of adoption of the Animal Local Law 2022 was published on 16 February 2023, noting that the local law will becoming operational on 17 February 2023.

The Animal Local Law 2022, relevant documents and advice from the Department of Local Government, Sport and Cultural Industries (DLGSC) were provided to the Joint Standing Committee on Delegated Legislation (JSCDL) on 17 February 2023 for their review of the local law.

On 23 March 2023, the JSCDL considered the local law and advised the former Mayor of its findings and seeking a commitment to several undertakings, one of which was a clause in relation to the keeping of cats was beyond the powers provided under the Cat Act 2011 and an amendment was required to rectify the 'non-compliance'. The JSCDL required a letter from the Mayor by 14 April 2023 agreeing to the undertakings.

At Council's 4 April 2023 meeting, Council agreed to follow the undertakings from the JSCDL.

At its 25 July 2023 Meeting, Council resolved to provide public notice of the proposed *City of Vincent Animal Amendment Local Law 2023* (Item 10.2). In accordance with Section 3.12(3)b of the *Local Government Act 1995,* a copy of the proposed *City of Vincent Animal Amendment Local Law 2023* was provided to the Department of Local Government, Sports and Culture (DLGSC) for review and comment.

At Council's 17 October 2023 meeting, Council considered the submissions from the consultation period which was between 29 July 2023 and 10 September 2023. During the public consultation period, the City received 18 submissions, with 5 in support of the amendment local law and 13 who did not support the local law.

The submissions received that did not support the amendment local law were supporting changes to ensure cats were contained within the property which were considered as outside of the powers of the legislation within the Cat Act 2011.

Minor changes were made to the draft *Animal Amendment Local Law 2023* following consideration of public submissions and advice from the DLGSC.

At this same meeting, Council adopted the Animal Amendment Local Law 2023.

The following motion on this matter was adopted at the 2024 WALGA AGM:

Consolidated Motion

That WALGA advocate to the State Government to make changes to the Cat Act 2011 to permit local laws to be made to the following effect:

1. Cats are to be confined to the cat owner's residence premises;
2. Cats within public places are to be under effective control and not to create a nuisance;
3. Cats are not allowed on other private properties where the cat does not have the expressed permission of the occupier of that premises, and are not to create a nuisance;
4. Cats are prohibited from ecologically sensitive areas designated as Cat Prohibited Areas by Absolute majority of Council, and clearly demarcated as such on a sign displayed at the area, without the need to modify the local law.

WALGA Secretariat Comment:

Many Local Governments have made Cat Local Laws prohibiting cats from being on land under the care, control and management of the Local Government, as currently provided for under the Cat Act 2011.

It is established through numerous disallowance motions by Parliament's Delegated Legislation Committee that the Cat Act 2011 does not provide the requisite heads of power for a Local Government to make Cat Local Laws requiring cats to be confined to the owner's residence or being prevented from roaming in any public place throughout the district.

Although not currently achievable, the intent of this Motion can be considered upon successful advocacy for a review of the Cat Act 2011 and provision of the necessary heads of power that allow Cat Local Laws to prevent cats from wandering.