

## **PUBLIC INTEREST TEST REPORT**

### **LOCAL LAW NO. 2 (ANIMAL MANAGEMENT) 2018, SUBORDINATE LOCAL LAW NO. 2 (ANIMAL MANAGEMENT) 2018 AND SUBORDINATE LOCAL LAW NO. 1 (ADMINISTRATION) 2018 (PRESCRIBED ACTIVITY KEEPING OF ANIMALS)**

A public interest test has been conducted as part of the National Competition Policy reforms on anti-competitive provisions identified in proposed Local Law No. 2 (Animal Management) 2018, Subordinate Local Law No. 2 (Animal Management) 2018 and Subordinate Local Law No. 1 (Administration) 2018 (prescribed activity keeping of animals). The public interest test has been conducted against the principles and objectives set by the Competition Principles Agreement which were outlined in the public interest test plan. A copy of the public interest test plan is attached.

The public interest test report has been prepared in accordance with guidelines issued by the Department of Local Government called up by regulation under the *Local Government Act 2009*.

#### **RESULTS OF CONSULTATION PROCESS**

Consultation with the public and key stakeholders occurred over a three week period. An advertisement was placed in the local paper at the commencement of the consultation period advising of the review and calling for submissions. Notices were posted on notice boards within the local government area during the consultation period. Direct notification of the review was sent to all key stakeholders.

Submissions received and arguments presented (if any) are annexed to this Public Interest Test Report.

#### **REASSESSMENT OF ALTERNATIVES**

The consultation process results show that both alternatives, negative licensing and town planning scheme, are still considered to be realistic alternatives to the current permit regime.

## POSITIVE AND NEGATIVE IMPACTS ON STAKEHOLDERS FROM MOVING TO ALTERNATIVE

### Negative licensing:

Stakeholder	Impact	Weighting
<b>Local government</b>	Cost to local government to establish new regime (modifying local law/advising existing permit holders etc). This is a once off cost.	Low negative (-1)
	Saving in resources from no longer having to process permit applications	Low positive (+1)
	Loss of permit application fees. Fees set to cover some of the administrative. However, current fee is not high so loss would not be substantial.	Low negative (-1)
	Increased risk of exposure to public liability claims. Possible claims of neglect in duty of care to public.	Low negative (-1)
	Increased enforcement costs.	Low negative (-1)
	Loss of flexibility - standards would only be able to be adjusted by amending the local law	Moderate negative (-3)
		<b><u>Overall - Moderate/high negative</u></b>
<b>Business</b>	<b>Existing business</b> Lower operating costs - no permit application fee applicable but would not result in a huge saving.	Low positive (+1)
	Increased penalties for non-compliance with standards of local law.	Low negative (-1)
	Standards would be known.	Low positive (+1)
	Increase in competition but not assessed as being substantial as population is stable in the area and market not likely to support further operators.	Low negative (-1)
	<b>Potential new business</b> Reduced barrier to entry to market but as population stable not large potential for increased operators.	Low positive (+1)
	Standards would be known.	Low positive (+1)
		<b><u>Overall - Low positive</u></b>
<b>Consumers</b>	Price reduction through greater competition and reduced operating costs passed on from operators. However, saving not likely to be substantial.	Low positive (+1)
	Increase in choice of operator. But not huge potential for growth so impact low.	Low positive (+1)
	Increase in health risks. Because the local government's power to cancel a permit is removed it would not be able to move quickly to stop an operator found to be not complying with standards set under the local law.	Moderate negative (-3)
		<b><u>Overall - Low/moderate negative</u></b>
<b>Animal Interest Groups (if any)</b>	Potentially an increase in monitoring role but some uncertainty as to degree of impact.	Low negative (-1)
		<b><u>Overall - Low negative</u></b>

Stakeholder	Impact	Weighting
<b>Neighbours</b>	Greater responsibility to take complaints to Council	Low negative (-1)
	Increased risk to health, amenity and occurrence of nuisances	Moderate negative (-3)
		<b>Overall - Moderate negative</b>

**Town planning:**

Stakeholder	Impact	Weighting
<b>Local government</b>	Saving in resources from no longer having to process permit applications	Low positive (+1)
	Loss of permit application fees. Fees set to cover some of the costs of administering the local law. However, current fee is not high so loss would not be substantial.	Low negative (-1)
	Increased enforcement costs: Would have to go to the Planning and Environment Court	Low negative (-1)
	Decrease in red tape - no duplication in local laws and planning scheme	Low positive (+1)
		<b>Overall - Neutral</b>
<b>Business</b>	<b>Existing business</b> Lower operating costs - no permit application fee applicable but would not result in a huge saving.	Low positive (+1)
	Potential for increased penalties for non-compliance with standards of local law.	Low negative (-1)
	<b>Potential new business</b> Reduced barrier to entry to market but as population stable not large potential for increased operators.	Low positive (+1)
		<b>Overall - Low positive</b>
<b>Consumers</b>	Price reduction through greater competition and reduced operating costs passed on from operators. However, saving not likely to be substantial.	Low positive (+1)
	Increase in choice of operator. But not huge potential for growth so impact low.	Low positive (+1)
	Increase in health risks. The local government's power to enforce standards will be via court action only.	Moderate negative (-3)
		<b>Overall - Low negative</b>
<b>Animal Interest Groups (if any)</b>	Potentially an increase in monitoring role but some uncertainty as to degree of impact.	Low negative (-1)
		<b>Overall - Low negative</b>
<b>Neighbours</b>	Opportunity to provide submissions when a new business is seeking approval.	Low positive (+1)
		<b>Overall - Low positive</b>

**SUMMARY OF NET IMPACTS ASSOCIATED WITH ALTERNATIVE**

In summary, comparison of the alternatives provides the following information:

Alternative	Local Government	Business	Consumers	Animal Interest Groups	Neighbours
Negative licensing	Moderate negative impact  Removing the permit regime reduces the local government's ability to control the businesses and hence may expose public to health risks and decreases in amenity.	Low positive impact  Positive impacts of reduced operating costs and reduction in entry to market are offset by increased penalties for non-compliance.	Low/moderate negative impact  Decrease in price for services is likely to be nominal while the increase in health risks is potentially substantial due to numbers of consumers.	Low negative impact  Potential for an increased monitoring role - eg new businesses do not need to contact the council first, therefore, new businesses may begin operation without the council's knowledge.	Moderate negative impact  Greater responsibility to take complaints to council and if standards aren't met there is a greater risk of decrease in health and amenity.
Town planning	Neutral impact  Red tape reduction and savings in resources should offset the loss of fees and greater enforcement costs.	Low positive impact  Reduced barrier to entry - however this is not seen as being a large benefit given that the permit fees are not substantial.	Low negative impact  There is the potential for lower costs but this may be offset by operators not meeting standards.	Low negative impact  Potential for a greater monitoring role.	Low positive impact  There will be opportunity to provide submissions about any new proposals.

Overall, the analysis of costs and benefits has determined there would a net cost in moving to a negative licensing regime. The only stakeholder group to obtain any benefits from the change to negative licensing would seem to be the operators and this benefit to them is quite low. Therefore, the permit regime should not be changed to a negative licensing regime.

With respect to repealing the anti-competitive provisions from the local law and relying on the town planning scheme, the analysis of costs and benefits has determined that there may be a negligible benefit to the community as a whole. Costs to both the Council and the operators may be reduced. If standards are enforced by the Council there should be no decrease in amenity nor increase in health and safety risks.

## **RECOMMENDATIONS**

Each possible anti-competitive provision reviewed is an anti-competitive provision and should be retained in its current form in the public interest.