



Minutes of Legislative (Local Laws) Committee Meeting

Held on

Tuesday, 3 March 2015

Commencing at 4.08pm

At the Shire Offices

Cnr Bentley and Collins Streets, Donnybrook WA 6239

J R Attwood
Chief Executive Officer

4 March 2015

DISCLAIMER

The advice and information contained herein is given by and to the Council without liability or responsibility for its accuracy. Before placing any reliance on this advice or information, a written inquiry should be made to the Council giving entire reasons for seeking the advice or information and how it is proposed to be used.

Please note this agenda contains recommendations, which have not yet been adopted by Council.



LEGISLATIVE (LOCAL LAWS) COMMITTEE MEETING MINUTES

3 March 2015

TABLE OF CONTENTS

1	PUBLIC QUESTION TIME	3
2	DECLARATION OF FINANCIAL/IMPARTIALITY INTEREST	4
3	PETITIONS/DEPUTATIONS/PRESENTATIONS	4
4	CONFIRMATION OF MINUTES OF PREVIOUS MEETING	4
5	REPORTS OF OFFICERS	4
5.1	Chief Executive Officer	4
5.1.1	SUBJECT: REVIEW OF LOCAL LAWS	4
5.1.2	SUBJECT: CAT LOCAL LAW	7
6	CLOSURE OF MEETING	10

SHIRE OF DONNYBROOK/BALINGUP

LEGISLATIVE (LOCAL LAWS) COMMITTEE MEETING MINUTES

Held at the Shire Office on Tuesday 3 March 2015 at 4.08pm

The Chairperson declared the meeting open at 4.08pm.

MEMBERS PRESENT

COUNCILLORS	STAFF	COMMUNITY
Cr Dilley (Chairperson)	John Attwood – CEO	
Cr Bailey	Lucy Bourne – Governance Officer	
Cr Logiudice (from 4.20pm)		
Cr Dawson (for Cr Mitchell)		

PUBLIC GALLERY

NIL

APOLOGIES

NIL

NOMINATION OF PRESIDING OFFICER

Cr Bailey nominated Cr Dilley to the position of Presiding Officer. In the absence of any further nominations the CEO duly declared Cr Dilley elected as the Presiding Officer of the Committee.

Cr Dilley took the chair and called for nominations of the position of Deputy Presiding Officer.

NOMINATION OF DEPUTY PRESIDING OFFICER

Cr Dawson nominated Cr Mitchell to the position of Deputy Presiding Officer. In the absence of any further nominations Cr Mitchell was duly declared elected as Deputy Presiding Officer of the Committee.

1 PUBLIC QUESTION TIME

NIL

- **Bush Fire Brigades**
- **Extractive Industries**
- **Fencing**
- **Health**
- **Miscellaneous Provision**
- **Property**
- **Thoroughfares (Activities) & Trading in Thoroughfares & Public Places**

Although not due until 2016, it is also proposed that the **Standing Orders Local Law** be reviewed this year, if time permits.

To comply with the Act it is recommended that Council adopt the following process:

- 1) State-wide public notice to be given inviting submissions on the review of the local law for a period of not less than 6 weeks (section 3.16(2) & 3.16(2a) of the *Local Government Act 1995*)
- 2) Following completion of the submission period, any submission received will be considered by Council officers and a report prepared and submitted to Council (section 3.16(3) of the *Local Government Act 1995*).
- 3) Council to consider the report to determine whether or not it considers that the local law should be repealed or amended (*absolute majority required*).
- 4) State-wide public notice to be provided
 - stating the title of the local law reviewed;
 - advising of its determination; and
 - advising that copies of the report of the review may be inspected or obtained from the local government's office.

If the local law is to be amended or repealed, the process outlined in section 3.12 of the *Local Government Act 1995* is to be commenced as follows:

- 1) At the council meeting the presiding person is to give notice to the meeting of the purpose and effect of the proposed local law on the prescribed manner.
- 2) State wide and local public notice to be given inviting submissions on the proposed local law for a period not less than 6 weeks.
- 3) Copies of proposed local law, National Competition Policy form and public notice to be sent to the Minister for Local Government
- 4) After the last day for submissions, 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, council is to publish it in the Gazette and give a copy to the Minister.
- 6) State-wide public notice to be provided
 - stating the title of the local law reviewed;

- summarising the purpose and effect of the local law
- advising that copies of the local law may be inspected or obtained from the local government's office.

Consultation

Under the Local Government Act 1995, section 3.16, Council is to give State-wide public notice for not less than 6 weeks, stating its intension to review the local law and public submissions can be made during this time.

Policy/Statutory Implications

Local Government Act 1995 Section 3.16.

Financial Implications

Approximately \$1000 in advertising costs.

Strategic Implications

N/A

Committee's Recommended Resolution (Officer's Recommended Resolution)

Moved: Cr Bailey

Seconded: Dawson

That under the Local Government Act 1995, Section 3.16, Council give State-wide public notice for a period not less than 6 weeks that Council proposes to review the following local laws:

- **Bush Fire Brigades**
- **Extractive Industries**
- **Fencing**
- **Health**
- **Miscellaneous Provision**
- **Property**
- **Thoroughfares (Activities) & Trading in Thoroughfares & Public Places**
- **Standing Orders**

Carried 4/0

5.1.2	SUBJECT:	CAT LOCAL LAW
	Location:	SHIRE OF DONNYBROOK-BALINGUP
	Applicants:	SHIRE OF DONNYBROOK-BALINGUP
	Zone:	N/A
	File Ref:	CNL25
	Author:	John Attwood – CEO (Lucy Bourne)
	Report Date:	18 February 2015
	Attachments:	5.1.2 Draft new Cat Local Law

Background

In 2007, the Shire of Donnybrook-Balingup introduced a local law pertaining to the welfare and keeping of Cats. This allowed Council to promote responsible cat ownership, reduce the nuisance to the community and damage to wild animals caused by cats. At the time no State legislation existed in relation to the keeping of cats.

The State Government introduced the *Cat Act 2011* and it took full effect in November 2013. The *Cat Act* and associated regulations provide a comprehensive general regulatory framework for the management of cats. It also provides local governments with the power to make local laws on a range of matters specific to their situation.

Council's current Local Law needs to be re-written to ensure there are no inconsistencies between the local law and the *Cat Act 2011*, the *Cat Regulations 2012* and the *Cat (Uniform Local Provisions) Regulations 2013*. Furthermore, no duplication of provisions is permitted.

It was anticipated that a model local law would be provided to assist local governments to develop cat local laws. Instead, however, the Local Government Department published *Cat Local Law Guideline Notes* in July 2014.

Given that Council already has a local law, its options are to:

- 1 Repeal the *Keeping and Welfare of Cats Local Law* and depend entirely on the *Cat Act* for the management of cats in the Shire.
- 2 Repeal the local law and replace it with a new local law, designed to sit under the *Cat Act 2011*.

Consideration was given to maintaining but amending the existing local law, but this is not recommended, given the head of power (enabling legislation) has changed from the *Local Government Act* to the *Cat Act*.

Comment

Council staff have analysed the local law in relation to the *Cat Act* to identify the functions provided for in the local law which are not covered by the *Cat Act*.

The *Cat Act* provides the following key controls:

- Registration
- Micro-chipping

- Sterilisation
- Change of Ownership
- Management of Cats (power to issue notices, seize cats, requirement for approval to breed cats etc.)
- Enforcement.

The current Local Law provides the following additional controls:

- Limiting the number of cats that may be kept without a permit
- Cats creating a nuisance
- Specifying places where cats are prohibited absolutely
- Removing and impounding cats
- Keeping, transferring and disposing of cats kept at a cat management facility
- The establishment, maintenance, licensing, regulation, construction, record keeping and inspection of cat management facilities.

After considering the options and consulting with WALGA, the Joint Standing Committee on Delegated Legislation and the Department of Local Government, Council staff recommend that Council continues to have a local law, rather than depend solely on the *Cat Act 2011*.

A new Local Law has been drafted (Attachment 5.1.2), based on the *Keeping and Welfare of Cats Local Law 2007*, but with the following amendments:

- Any provisions that are inconsistent or in conflict with the *Cat Act* have been removed
- Any provisions covered by the *Cat Act* have been removed (duplication)
- Terminology has been updated where appropriate
- Formatting has been altered to suit current guidelines for developing local laws.

To comply with s.3.16 of the *Local Government Act* it is recommended that Council adopt the following process:

- 1) At a council meeting, the person presiding is to give notice to the meeting of the purpose and effect of the proposed new local law in the prescribed manner.
- 2) The local government is to give Statewide public notice stating that the local government proposes to make a new local law and that a copy of the proposed local law may be inspected or obtained from the Shire administration centre and that submissions are invited within a period of not less than six weeks (42 days) from the day the notice is given.
- 3) Following completion of the submission period, any submission received will be considered by Council officers and a report prepared and submitted to Council (section 3.16(3) of the *Local Government Act 1995*).
- 4) Council is then to consider this report and make the local law, either as proposed or with minor alterations if necessary (*absolute majority required*).
- 5) After making the new local law, the local government is to publish it in the Government Gazette, give a copy of it to the Minister and provide local public notice summarising the purpose and effect of the new local law and the day on which it comes into operation.

Consultation

WALGA, Department of Local Government, Joint Standing Committee on Delegated Legislation.

Policy/Statutory/Voting/Implications

Statutory

Cat Act 2011

Cat Regulations 2012

Cat (Uniform Local Provisions) 2013

Local Government Act 1995 Section 3.16.

Voting

Absolute Majority

Financial Implications

Advertising and publication costs estimated to be about \$1,000.

Strategic Implications

Strategic Community Plan objective 3.8 – maintain a safe and friendly community environment.

Committee's Recommended Resolution (Officer's Recommended Resolution)

Moved: Cr Logiudice

Seconded: Cr Bailey

That a new local law, known as the Shire of Donnybrook-Balingup Cat Local Law is made under the powers conferred by the *Cat Act 2011*,

and that -

State-wide and local public notice of the proposed *Cat Local Law 2015* be given as follows:

“The Shire of Donnybrook-Balingup proposes make a new local law relating to the control of cats to replace the *Keeping and Welfare of Cats Local Law 2007*.

The purpose of the proposed local law is to provide Council with measures in addition to those under the *Cat Act 2011* to control the keeping and welfare of cats.

The effect of this local law is to: -

- (a) Promote responsible cat ownership;**
- (b) Reduce the nuisance to the community caused by cats;**
- (c) Limit the damage to and the loss of wildlife caused by cats; and**

(d) Promote the welfare and safety of domestic cats.

A copy of the proposed new local law may be inspected at or obtained from the Shire Administration Centre, corner Collins & Bentley Streets, Donnybrook, between 8.30am and 4pm Monday to Friday, from the Shire website (www.donnybrook-balingup.wa.gov.au) or the Donnybrook and Balingup libraries.

Submissions about the proposed local law may be made to the Chief Executive Officer, Shire of Donnybrook-Balingup (...) by Friday 5 June 2015.”

**Carried 4/0
By Absolute Majority**

6 CLOSURE OF MEETING

The Chairperson advised that the next Legislative (Local Laws) Committee Meeting will be held at a time and on a date to be advised at the Shire of Donnybrook-Balingup Council Chambers.

Chairperson declared the meeting closed at 4.39pm.

These Minutes were confirmed as a true and accurate record at the Legislative (Local Law) Committee meeting held on _____		
Shire President		Presiding Member