



# Minutes of Legislative (Local Laws) Committee Meeting

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TO:

Crs Dilley, Bailey, Logiudice, Mitchell

Held on

Tuesday, 8 September 2015

Commencing at 4.00pm

At the Shire Offices

Cnr Bentley and Collins Streets, Donnybrook WA 6239

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A handwritten signature in blue ink, appearing to read "J R Attwood".

**J R Attwood**  
**Chief Executive Officer**

**Date: 10 September 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.

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# LEGISLATIVE (LOCAL LAWS) COMMITTEE MEETING MINUTES

8 September 2015

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# SHIRE OF DONNYBROOK/BALINGUP

## LEGISLATIVE (LOCAL LAWS) COMMITTEE MEETING MINUTES

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Held at the Shire Office on Tuesday 8 September 2015

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The Chairman declared the meeting open at 4pm.

### MEMBERS PRESENT

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#### COUNCILLORS

Cr Dilley (Chairman)  
Cr Bailey  
Cr Mitchell

#### STAFF

John Attwood – CEO  
Lucy Bourne – Governance Officer

#### COMMUNITY

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### PUBLIC GALLERY

NIL

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### APOLOGIES

Cr Logiudice

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### 1 PUBLIC QUESTION TIME

NIL

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### 2 DECLARATION OF FINANCIAL/IMPARTIALITY INTEREST

NIL

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### 3 PETITIONS/DEPUTATIONS/PRESENTATIONS

NIL

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#### 4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

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Moved: Cr Bailey

Seconded: Cr Mitchell

That the Minutes of the Legislative (Local Laws) Committee Meeting held on 3 March 2015 be confirmed as a true and accurate record.

Carried 3/0

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#### 5 REPORTS OF OFFICERS

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##### 5.1 Chief Executive Officer

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5.1.1	<b>SUBJECT:</b>	<b>LOCAL LAW REVIEW</b>
	<b>Location:</b>	<b>SHIRE OF DONNYBROOK-BALINGUP</b>
	<b>Applicants:</b>	<b>SHIRE OF DONNYBROOK-BALINGUP</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>CNL25</b>
	<b>Author:</b>	<b>John Attwood – CEO (<i>Lucy Bourne – Governance Officer</i>)</b>
	<b>Report Date:</b>	<b>13 August 2015</b>
	<b>Attachments:</b>	<b>5.1.1 – Local laws with proposed amendments shown as tracked changes.</b>

### Background

Section 3.16 (1) of the Local Government Act 1995, requires that within a period of 8 years from the day when a Local Law commenced or a report of a review of the local law was accepted under this section, as the case requires, a local government is to carry out a review of the local law to determine whether or not it considers that it should be repealed or amended.

A review has been undertaken of the following local laws:

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

### Comment

In accordance with the *Local Government Act 1995* – Section 3.16(2) & 3.16(2a) statewide and local public notice of Council's intention to review these local laws was given and the public were invited to submit comment.

Notices were placed in the West Australian, the Donnybrook-Bridgetown Mail and on Council and library noticeboards on 7 April 2015. Submissions closed on 5 June 2015.

One submission relating to the Extractive Industries Local Law was received (Attachment 5.1.1a)

Copies of the local laws under review, with proposed amendments shown as tracked changes, are attached (Attachment 5.1.1b).

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 and public notice are 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 for Local Government, any other relevant Ministers and the Joint Standing Committee on Delegated Legislation.
- 6) State-wide public notice is also 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.

#### **Submissions received:**

##### ***Extractive Industries Local Law***

One submission was received as follows:

*"In regard to the review of the Extractive Industry Local Law, I would ask that it be retained. The Local Law provides protections to the community and environment which would not otherwise be available or enforceable, through other documents such as the planning scheme policies.*

*If it was decided to amend the document, I would suggest reviewing the penalties within the document, as they have not been reviewed since 1998 when the law was adopted."*

#### **Officer comment:**

It is recommended that this local law is retained. The penalties were reviewed in 2007 and adjusted in 2008 to reflect the Model Local Law, with the exception of Clause 2.1 'Carry on extractive industry without a licence or in breach of terms and conditions', for which the daily penalty was set at \$500, as opposed to \$350.

A summary of proposed changes is shown in the table below. Detailed proposed amendments are shown as tracked changes in Attachment 5.1.1.

<b>Miscellaneous Provisions</b>	No changes recommended
<b>Local Government Property</b>	No changes recommended
<b>Bush Fire Brigades</b>	Minor amendments to reflect change of Govt department names and terminology
<b>Extractive Industries</b>	Minor amendment to correct duplication
<b>Fencing</b>	Minor amendments to reflect change of term 'Special Residential'  To include provision for fences made of brick, stone, concrete or composite materials in residential zones and  Increase maximum height of dividing fences to 1200mm to be consistent with other shires.
<b>Health</b>	Significant changes recommended to reflect introduction of WARR Act, Food Act, Building Regulations.
<b>Activities on Thoroughfares &amp; Trading in Thoroughfares &amp; Public Places</b>	Changes recommended to reflect introduction of Outdoor Eating Areas Local Law, changes in government departments.
<b>Standing Orders</b>	Repeal and replacement with new local law based on model recommended.

### Consultation

Public consultation of a minimum of six weeks provided in accordance with *Local Government Act 1995, section 3.12*

Department for Local Governance

WALGA Governance Team

### Policy/Statutory Implications

*Local Government Act 1995* Section 3.12.

### Financial Implications

Cost of placement of advertisements – prior to and following review – approximately \$1,250.

Cost of Gazettal – approximately \$1,000.

### Strategic Implications

N/A

### Officer's Recommended Resolution

That in accordance with Section 3.16 of the *Local Government Act 1995*, Council has reviewed the *Shire of Donnybrook-Balingup Miscellaneous Provisions Local Law* and the *Local Government Property Local Law* and has determined that the local laws are to remain unchanged.

That under the *Local Government Act 1995*, Section 3.12, Council give State-wide public notice for a period not less than 6 weeks that, following a review, Council proposes to:

- (1) amend the following local laws:
  - Bush Fire Brigades Local Law
  - Extractive Industries Local Law
  - Local Laws Relating to Fencing
  - Health Local Law
  - Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law
- (2)
  - (a) repeal the *Standing Orders Local Law* published in the Government Gazette on 7 July 1997 and amendments to the *Standing Orders Local Law* published in the Government Gazette on 31 August 1999; and
  - (b) make a new local law relating to Standing Orders (Council Meetings) to replace the repealed local laws.

### Committee's Recommended Resolution

Moved: Cr Bailey

Seconded: Cr Mitchell

That in accordance with Section 3.16 of the *Local Government Act 1995*, Council has reviewed the *Shire of Donnybrook-Balingup Miscellaneous Provisions Local Law* and the *Local Government Property Local Law* and has determined that the local laws are to remain unchanged.

That under the *Local Government Act 1995*, Section 3.12, Council give State-wide public notice for a period not less than 6 weeks that, following a review, Council proposes to:

- (1) amend the following local laws:
  - Bush Fire Brigades Local Law
  - Extractive Industries Local Law

- **Local Laws Relating to Fencing**
- **Health Local Law**
- **Activities on Thoroughfares & Trading in Thoroughfares & Public Places Local Law**

**Carried 3/0**

Note: The matter of the Standing Orders Local Law will be dealt with at a Councillors workshop to be arranged in the next 12 months. It was noted that the review of this Local Law was brought forward and is not due until 2016.

<b>5.1.2</b>	<b>SUBJECT:</b>	<b>CAT LOCAL LAW</b>
	<b>Location:</b>	<b>SHIRE OF DONNYBROOK-BALINGUP</b>
	<b>Applicants:</b>	<b>SHIRE OF DONNYBROOK-BALINGUP</b>
	<b>Zone:</b>	<b>N/A</b>
	<b>File Ref:</b>	<b>CNL25</b>
	<b>Author:</b>	<b>John Attwood – CEO (<i>Lucy Bourne – Governance Officer</i>)</b>
	<b>Report Date:</b>	<b>18 February 2015</b>
	<b>Attachments:</b>	<b>5.1.2 Draft V2 of new Cat Local Law</b>

### **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.

At the Ordinary Meeting of 25 March 2015, Council resolved to introduce a new Local Law, to be known as the *Shire of Donnybrook-Balingup Cat Local Law*. State-wide and local public notice of the proposed new local law was given and a copy made available for viewing.

### **Comment**

No submissions from the public were received, however comment was received from the Department of Local Government and, internally, from Shire Officers, including Rangers.



**1 Cat prohibited areas:**

Clause 4.1 of the draft provided that all land vested in the local government is a cat prohibited area. The Department advised that the Delegated Legislation Committee has objected to clauses of this nature and that this may be raised as an issue.

Staff also pointed out that there may be situations where cats are permitted on local government land or property – for example, in a retirement home, or other accommodation that may be provided by the Shire. It is noted that if the Shire wishes to remove a cat from premises which the Shire owns or occupies, it may do so under provisions in section 27 of the Cat Act 2011.

It is recommended that this clause is removed from the proposed Cat Local Law.

**2 Penalties:**

Clause 8.3 of the draft provides that a failure to comply with the local law is an offence, but does not set any unmodified penalty for this offence. A maximum unmodified penalty needs to be included. It is recommended that the maximum penalty is set at \$2,500.

**3 Cats to be confined:**

Following discussions with the Shire Rangers it is recommended that a clause be included requiring cat owners confine their cats to their premises.

The resulting Local Law will therefore provide control over the following:

- The number of cats that may be kept without a permit
- Cats creating a nuisance
- Confinement of cats to the owner's premises
- 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.

These controls are over and above those provided for in the *Cat Act 2011*.

The changes recommended in (1) (2) and (3) above constitute a 'significant difference'. This means that the process of introducing this local law needs to re-start, in accordance with section 3.12 of the Local Government Act, with statewide and local notice that the local government proposes to make a new local law.

**Consultation**

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

## **Policy/Statutory Implications**

*Cat Act 2011, Cat Regulations 2012*  
*Cat (Uniform Local Provisions) 2013*  
*Local Government Act 1995 Section 3.16.*

## **Financial Implications**

Re-advertising approx. \$744, plus cost of gazettal approx. \$800.

## **Strategic Implications**

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

## **Officer's Recommended Resolution**

**Moved: Cr Dilley**

**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 revised proposed *Cat Local Law* 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](http://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 20 November 2015.”**

**Carried 3/0**

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**6 CLOSURE OF MEETING**

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The Chairman advised that the date of the next Legislative (Local Laws) Committee Meeting to be held at the Shire of Donnybrook-Balingup Council Chambers would be advised.

Chairman declared the meeting closed at 4.44pm.

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