

*Joint Standing Committee on Delegated Legislation — Second Report —
Annual Report 2021 — Motion*

Resumed from 30 November 2022 on the following motion moved by Hon Martin Pritchard —

That the report be noted.

Hon PIERRE YANG: Thank you for the opportunity to continue my remarks. On 30 November 2022, the chamber looked at this report and I was the last person called to make some remarks on the report. Hon Martin Pritchard, Hon Lorna Harper and Hon Stephen Pratt all made contributions. Being a very capable member of this committee, Hon Martin Pritchard spoke on this report a couple of times. The Joint Standing Committee on Delegated Legislation, as we know, has a very heavy workload. The second report of this committee is the *Annual report 2021*, and the executive summary states —

The Committee scrutinised a significant volume of delegated legislation.

Paragraph 5 of the executive summary states —

In the Reporting Period, the Committee considered 369 instruments, including 180 regulations and 118 local laws.

In this state, legislative power is vested with the Parliament of Western Australia. That is parliamentary sovereignty. The legislative power within the Commonwealth of Australia is defined in the commonwealth's Constitution. When it comes to foreign affairs, defence, telecommunication and trade among states and territories, these legislative powers are within the realm of the federal Parliament. When it comes to other matters including health, education and policing, those legislative powers are within the state of Western Australia. Nevertheless, an act of Parliament can sometimes be stipulated in general terms, allowing delegated authority for subsidiary legislation in the form of regulations made by departments and local laws made by local councils.

I draw from my experience as a councillor for the City of Gosnells, between 2013 and 2017, prior to my election to this place. I am sure that experience is shared by my parliamentary colleagues here, such as Hon Shelley Payne, Hon Peter Foster and Hon Stephen Pratt, who have also served as local councillors in their previous public service days. I think we are the four members in this place who have served as local councillors. As part of my duties as a local councillor, I voted on local laws. I recall that one of the things we were debating on time was the cat local law.

Hon Kyle McGinn: The cat local law?

Hon PIERRE YANG: Yes. It was in the City of Gosnells, and it was a very interesting local law because some people had maybe a few too many cats, which became an issue for local residents. It was a very interesting and sensitive community issue, and we had a cat local law if I remember correctly.

Hon Kyle McGinn: Do you have a cat?

Hon PIERRE YANG: I was born a dog person, but I am a converted cat person. I love those animals equally. They are popular in other communities, and I think we should not discriminate one from the other. Cats and dogs are all good.

I will come back to the report. The delegated power to make rules in the form of regulations, by-laws and local laws can be stipulated in the primary legislation. It is important that the authority exercised by the relevant agencies, when making those subsidiary laws, do not go beyond the scope as stipulated in the primary legislation. Hence, a very important function is exercised by the del leg committee, as we are colloquially known. The del leg performs a very important function to ensure that local laws issued by local councils do not go beyond the realm and scope allowed by the primary legislation.

I will touch on something that I learnt during the last Parliament. I was the Deputy Chair of the Standing Committee on Uniform Legislation and Statutes Review, and Hon Michael Mischin was the chair. One of the terms of reference of that committee was to look at Henry VIII clauses to make sure that the primary legislation did not authorise subsidiary legislation to go beyond Parliament's original intent. We did not allow for primary legislation to state that it was up to the minister or the director general of a department to make regulations without scrutiny. Legislation could not be crafted in those terms. The gist of that is: it is important that we do not have Henry VIII clauses as a routine measure in primary legislation. Granted there are occasions on which it is important that we afford that flexibility to the executive, as authorised by the legislation; nonetheless, those occasions should be given, granted and exercised very judiciously, and they should not be normal practice.

Paragraph 6 of the executive summary states —

Motions for the disallowance of delegated legislation usually do not proceed in the Parliament if the Committee receives satisfactory undertakings to amend the instrument. The Committee only recommends the disallowance of an instrument as a last resort. During the Reporting Period, the Committee received

departmental (Ministerial) undertakings covering seven instruments and local government undertakings covering 33 local laws.

Paragraph 7 states —

The Committee tabled one report in the Parliament recommending the disallowance of the *City of Kalamunda Dogs Local Law 2021*. The Legislative Council disallowed this local law.

I have a lot I wish to talk about on this very important *Annual report* as presented by the del leg committee, and if I have the opportunity, I shall do that today. Otherwise, I will wait until the report is debated on the next occasion.

Hon LORNA HARPER: Thank you, deputy chair, from another deputy chair. I stand today to talk on the second report of the Joint Standing Committee on Delegated Legislation, titled *Annual report 2021*. As it is stated in the *Annual report*, I am the deputy chair of the delegated legislation committee, or more lovingly known as del leg. I think del leg gets a bit of a bad rap, and I think we should clarify some things about what del leg actually does. As we hear, under one tier of government, del leg actually deals with another tier of government, and a lot of the things that we do are related to local government. Local government is where a lot of members of the public go first because local government impacts their lives. What happens in local governments is very important. As many of us are ratepayers, we want to have a say in what our local government does, and we want to make sure that our local government is doing the right thing. To be honest, the majority of local governments strive to do the right thing; however, sometimes errors may be made because they have a delegated authority to make local laws. It is not intentional, but there may be errors if they are trying to enact things that they cannot. This is one very simplistic view of what the delegated legislation committee does. If we look at the executive summary, it says —

The Committee’s role is to scrutinise, on behalf of the Parliament —

That is on behalf of everybody in this chamber and people in the other chamber —

instruments made under statutory delegation by ... local governments.

The Committee determines whether the instruments are within power of the authorising primary legislation or are otherwise in breach of the Committee’s terms of reference.

In saying that, the committee does not make decisions based on whims. It looks to see whether local governments are acting within their powers. Does it go back to the legislation that was mentioned? If members look at the committee’s terms of reference, they are actually very clear. I have issues with my glasses at the moment, but it says —

In its consideration of an instrument, the Committee is to inquire whether the instrument —

(a) is within power;

Does it fall within the act that it is trying to emulate? And —

(b) has no unintended effect on any person’s existing rights or interests;

I am not allowed to talk about what we talked about in the committee, but I wish I could explain some of the examples of how easily that can happen. It is genuinely unintended. I have yet to see—oh, I cannot say that either. I love committee reports and being on the committee.

It contains only matters that are appropriate for subsidiary legislation. At the end of the day, it comes back to the actual legislation: does the legislation it is referring to allow the local government to do what it is trying to do? Not always. That is when I stand up on a regular basis and give notices to disallow, and then I remove notices to disallow, and everybody in the chamber just smiles sweetly and says “okay”. At the end of the day, what the chamber should remember is that these things could potentially come before the chamber, and it would be up to the chamber as a whole—not the members of the committee—to make that decision.

Members of the committee are not there to put forward their personal views. They are there to follow the legislation and to follow the committee’s terms of reference. Sometimes, it is a very strict committee. Our terms of reference are very strict. I have been on other committees in which certain things feel a bit more fluid, but we have to be very, very precise for delegated legislation. Another word for that could be dry, but we are very, very precise.

We also look to see that the standing orders of the Legislative Council are followed in dealings with the committee. As it is a joint standing committee with members from the other place as well, we sometimes have to explain to Legislative Assembly members what the standing orders of this place are because, although there are lots of similarities, there are differences as well. So there should be; we act differently. Here, we review, reflect and really read everything that comes through. I cannot reflect on what they do in the other house because I stay here and I do not go over there, but it is very important in dealing with some of the issues.

Some current members in this chamber have previously been members of this committee and previous committees, because this is the fifth iteration of the committee. I would like to mention Hon Martin Pritchard. I believe Hon Martin Pritchard has been a member of delegated legislation committees since he came into Parliament. Talk

about continuity! There is our living history, and here is a person we all revere. Why are members laughing? Living history is a really nice term.

Hon Klara Andric interjected.

Hon LORNA HARPER: No, living history. It is really good for MPs who were elected at the last election, like Hon Stephen Pratt and me, because we have somebody whom we can turn to and who can mentor and assist us going forward. That is really good. I love the fact that we have that continuity.

We have other members. Hon Matthew Swinbourn was in it. I do not know how it happened, but Hon Kyle McGinn was a member of delegated legislation.

Hon Kyle McGinn: For four years, mate.

Hon LORNA HARPER: Even the former Premier Hon Mark McGowan was a member of the delegated legislation committee. When other members make comments about del leg, I like to remind them of some of the superstars who have been in it. Current ministers were in it. I did not research members from the other side who might have been in it; I was just looking at Labor and the stars we have here.

It is very important to note that when we are sitting in the committee, the committee is genuinely looking at the laws and how they are interpreted. It is not about political persuasions or thoughts. We have to be very dry. I am a staunch trade union person, and people think I like to rally against the world. Actually, trade unions like rules. The rules we do not like, we change, but we like rules. We like people to know what their entitlements are. We like people to know where the boundaries are and what their rights are, so delegated legislation actually is just another step forward. With delegated legislation, it is clearly written out. This report and any other reports that come after are just a snapshot of the work that delegated legislation does.

I will state that I think we need a new photo because, as things do, times have changed. The next time we get a photo, I think I will need a booster seat because I can see how small I look in this photo. No comments, please.

Saying that, Hon Pierre Yang mentioned how much work we did, the drafting and the drafting errors. To be honest, if anybody has read *The West Australian* recently, they would have seen drafting errors in that. The amount of poor grammar and spelling that we get in things like that is actually quite scary, so it is understandable that there could be drafting errors in some of the local laws and all the bumph that comes with it. I might leave my comments there. Suffice to say, delegated legislation is more than people think it is. It is not as dry as people think it is. We have moments of excitement when we are looking at things, when people go way off or slightly off what they should be doing, and we just calmly and quietly bring them back in. Thank you.

Hon MARTIN PRITCHARD: I would like to make a couple of comments on this report. I know it is the 2021 annual report, but I would like to comment on a couple of interesting aspects to it.

The committee has eight members, with four from each house. I want to make a couple of comments about the make-up of the committee. Since 2021, we have had three people leave: Hon James Hayward; Dr Katrina Stratton, MLA; and Christine Tonkin, MLA. We have also welcomed a couple of new members. One was Hon Steve Martin and another was Paul Lilburne, the member for Carine. I want to mention that because during COVID, of course, meetings were quite difficult, and one of the ways we dealt with making sure we had a quorum so the business of the committee continued was through Webex. Webex meetings are functional and serve a purpose but are probably not as good as having a meeting in person. The fact that we have eight members on this committee, and many other committees have far fewer, makes it able to function and continue to operate even when it has country members. I note that Hon Steve Martin is a regional member. I think it is worthwhile turning our minds to the fact that more regional members should get some experience on the delegated legislation committee for the pure reason that there is not so much pressure on them to be at every meeting. It does not mean the meeting will not go ahead because of a lack of quorum. This is not the case with many other meetings and committees, which often have four members on them and still require a majority to be in quorum. Just something to think about for the future on the size of committees and whether the people who go on those committees are metropolitan-based or regionally based, particularly for committees that might meet out of sitting weeks.

I will go over the terms of reference of the Joint Standing Committee on Delegated Legislation briefly. In the consideration of an instrument, the committee is to inquire whether the instrument is within power, has no unintended effects of any person's existing rights or interests, provide an effective mechanism for the review of administrative decisions, and contains only matters that is appropriate for subsidiary legislation. That is the core business of the committee. A lot of subsidiary legislation is sent to the committee, and we deal with it in three ways. We check through most subsidiary legislation that comes to the committee to make sure that the process has been correctly followed and it follows all the other terms of reference. The vast majority of the subsidiary legislation that comes through is basically accepted by the committee as fulfilling all of its requirements and passes through to the keeper. Although this chamber can make comment and seek to disallow it, often it does not. It is left to the committee to make the checks and balances, and it flows through to the keeper.

Many other pieces of legislation, particularly from smaller shires that do not have as much expertise or as many resources, often come to the committee with errors, sometimes very serious errors. This means that the by-law cannot be accepted and has to be disallowed. With things like spelling errors and such, the committee will often write back to the shire seeking its commitment to remedy spelling errors and small defects, and giving a certain amount of time to do that. In the meantime, the committee will put on a motion of disallowance in this place to make sure that the shire continues to follow any commitment it may make, otherwise it will be disallowed. That is another way in which it is dealt with. As I said, sometimes it is catastrophic due to not following the process, so we make a motion of disallowance in this chamber. The chamber will review the report that is put forward, agree or disagree with the committee's determination, and it will be either disallowed or allowed to go through.

There was an example in this report. The committee tends to deal with a lot of by-laws for cats. I always thought it would be about fences and such, but cats seem to be the flavour of not just the month but the many years that I have been on the committee.

The Town of Bassendean, back in 2021, put a clause in a by-law that it wished to pass that read —

The cat shall not be in any place that is not a public place unless consent to it being there has been given by the owner or occupier of the premises, or a person who has been authorised to consent on behalf of the owner or occupier. If a cat is at any time in place in contravention of this clause, the owner of the cat is committing an offence.

Anyone who owns a cat who allows it to go out at night—I would encourage them not to—will know that it is impossible to prevent that cat from jumping a fence and going into the property of the next-door neighbour or the neighbour three blocks away. It is physically impossible to restrain a cat if it is allowed to go out, even during the day. At night it often causes more problems because of the impact it has on the local fauna, but daytime is a similar problem. The view of the committee at that time was that the by-law was not supported, or there was not a head of power within the Cat Act, so it wrote back to the Town of Bassendean. Although the vast majority of the by-law that it wished to pass was fine, the committee requested that it remove that clause. The Town of Bassendean wrote back to us and gave a commitment to do just that, and not enforce the by-law as it stood. We accepted that, the by-law was subsequently rewritten, and it was all fine.

That is one way in which the committee deals with by-laws. If the Town of Bassendean had not given that commitment, the committee would have recommended to this chamber disallowing that by-law, and the chamber would have made a decision one way or the other whether it would do that.

I am going to run out of time, but I hope members will give me some latitude and allow me to speak beyond the 10 minutes, because I would like to speak about something slightly different, and that is an alternative way in which a by-law can be disallowed. That is not with regard to what the committee determined, but what I determined within this place. Back in 2016, I was a member of the committee when the City of Joondalup put forward this motion related to the City of Joondalup's Animal Amendment Local Law 2016, published in the *Government Gazette* on 10 January 2017, and tabled in the Legislative Council under the Local Government Act. The local government wanted to put in that by-law, but I moved a disallowance motion.

The DEPUTY CHAIR: I give the call again to Hon Martin Pritchard.

Hon MARTIN PRITCHARD: I will give a little history first. The intent of the local law was to prohibit horses from access to a portion of the dog beach just north of Hillarys Boat Harbour. Horses had had the opportunity to exercise on a portion of the dog beach for some 40 years, I think. The City of Joondalup went through all the correct procedures, and it had the head of power within that bill to introduce this by-law. Irrespective of the fact that the committee found that the City of Joondalup had jumped through all the correct hoops and ticked off all the things it needed to do, it was my view, as a member of this chamber, that the by-law should be struck out. Therefore, I moved a motion to disallow that as a member of this chamber, rather than as a member of the committee. The committee found it to all be in order; I moved a disallowance motion from here and sought support from other members of the chamber. I received support from everybody in the chamber, and, indeed, Hon Peter Collier, Hon Alison Xamon, Hon Rick Mazza, Hon Colin Tincknell, Hon Stephen Dawson and Hon Martin Aldridge also spoke to that disallowance motion because they were convinced of the merits of disallowing the by-law and allowing horses to continue to use that beach. When the disallowance motion went to the vote, everybody in the chamber voted in favour of it.

I must add that during that process the mayor for the City of Joondalup changed, and it would be fair to say that after I had had a number of discussions with him, the new mayor was actually quite supportive of the disallowance motion in this chamber as well, as were most, or I think all, northern suburbs members at that time. Here was a situation in which the City of Joondalup had done all the right things, believed it was doing the right thing, and there was genuine concern about that by-law. As a member of this chamber, I was able to get it disallowed with the support of other members of this chamber, and the horse beach continues to be used to this day.

I want to highlight that the committee does some very, very good work within its terms of reference, but it is not in a position to actually make decisions. It makes recommendations to this chamber, and it is up to this chamber to determine whether a by-law should be allowed to continue or whether it will be disallowed. It is up to any member in this chamber to move a disallowance motion if they are so moved.

The situation back then with the local laws people wanted to introduce to ban cats going onto other people's private property is not dissimilar from current issues about cats being allowed in public areas. The issues are slightly different, but cat issues continue to this day. The committee will continue to try to make the best determination it can and give the best advice to this chamber; however, ultimately, anybody in this chamber can take a particular view on any subsidiary legislation and take action as they see fit. I say that to members in this chamber who probably already realise it, but I say it hoping that other people in our constituencies will also understand that this chamber makes the final determination, not the committee. People may want to lobby the committee and give it all the views that they believe are correct, but the committee will continue to act in the best interests of the chamber and give it the best advice it can. Ultimately, the decision will be made in here. If any lobbying needs to be done, it is just as easy to lobby a member of this chamber as it is to try to lobby members of the committee.

Hon STEPHEN PRATT: I will follow on a bit from what Hon Martin Pritchard touched on because there seems to be a little bit of confusion around the function of the Joint Standing Committee on Delegated Legislation and its decision-making powers. The member is quite right to point out that this place will make the final determination on anything that the committee recommends.

This report harks back a bit, to the first year I was a member of this place and became a member of this committee. Although the report reflects the period 1 January to 30 December 2021, for me it was obviously from May, when we were sworn in and got cracking on the real work of committees. Although it is a constrained period, I think that explains why this report goes into detail on the function and role of the committee, and gives a really good outline of the role the committee plays and the methodology it goes through with each item that it discusses.

As Hon Pierre Yang mentioned, the report also shows how much work the committee actually undertakes. There is a nice table on page 4 of this report that shows the large number of instruments that were published and scrutinised by the committee in that shortened reporting period. It also shows us that in my short time on this committee, the committee dealt with a lot of local laws. I was reminded by my good friend Hon Pierre Yang of my time as a local government councillor. I, like a couple of other members in this place, have done some time on a local council. When we deliberate things on this committee, it reminds me in some ways of my time at the other end of the scale. We would be asked to vote on new local laws, and from time to time the Joint Standing Committee on Delegated Legislation would end up asking for those laws to be amended. From my recollection, I think we did a reasonable job of things at the City of Cockburn, so that was not something that happened too often, but I remember being on the council back in 2011 when the cat laws were being debated in Parliament, and the amount of work that local governments put into feeding into the process leading up to that, as well.

The table also shows the large number of drafting issues that are discovered. It takes a special kind of person to do the nitty-gritty work on these committees, and I have to hand it to Alex Hickman, who is our legal advisory officer. He goes through each of these by-laws with a fine toothcomb and considers whether local governments have to redraft or amend the wording of their local laws. He does a lot of the hard work for committee members, pointing out the issues that we should be alerted to. There was a large number of drafting error issues in this reporting period, equating to 66 per cent of the issues that we encountered. The table shows a comparison on previous years. That is relatively consistent. It was 77 per cent in the previous year and 52 and 56 per cent in the previous two years, so a large chunk of the work that we are confronted with on these committees relates to drafting issues.

I made some notes as members in the chamber were speaking. I have already touched on the point that Hon Pierre Yang noted about our previous work as members on local councils and the amount of work that local governments put in when drafting local laws. I understand how frustrating it can be when the committee ends up saying, "No, you've got it wrong, back to the drawing board." It is quite an elongated process for local governments. In my experience, we had a monthly meeting, so another month would pass. It takes a long time for a local law to be redrafted and amended so that it fits within the scope; it would then be brought to the council again for a decision, and one would hope that it would be to the approval of the committee.

I think Hon Lorna Harper also mentioned the advantage that we have as new members on a committee of this type in having someone who has been on the committee consistently over a period and being able to lean into that knowledge. It makes our job a lot easier to have someone like Hon Martin Pritchard on the committee to give sound guidance and advice. His recommendations are often agreed to and treated with a lot of respect. He also mentioned in his deliberations on this report the new members who have come onto the committee and the changes that we have had. I know I have personally valued the input that Hon Steve Martin has made since he came onto the committee and also the input of the more recent outgoing member, Christine Tonkin. She certainly will be missed because she is quite similar to Alex Hickman in some ways in the level of detail and scrutiny she will go into in

looking at the items that are presented to the committee. It was not touched on because I do not think we know who the newest member will be, but I am sure that that will be announced shortly.

Hon Martin Aldridge: Wasn't there a message read in this morning? I think the new member for Rockingham has been nominated.

Hon STEPHEN PRATT: I may have missed it. Magenta Marshall will be joining us. I am sure that she cannot wait to get cracking.

Hon Dr Steve Thomas: Is it a reward or punishment?

Hon STEPHEN PRATT: I do not know. I am on the committee; have I been rewarded? I am on a couple of committees so I am not sure.

Hon Martin Aldridge interjected.

Hon STEPHEN PRATT: I think she is doing another committee. She is not getting a holiday or anything, that is for sure.

Hon Martin Aldridge: Just checking. We could put her on the legislation committee.

Hon STEPHEN PRATT: I will ignore that one. Hon Lorna Harper mentioned that although there are some misnomers about the content that we deal with on this committee, Magenta Marshall, the new member for Rockingham, will certainly look forward to diving into some of the issues that we are going to be dealing with going forward. The only other thing that sort of jumped out at me in this one—I know it will be of interest to other members—was the reference to the City of Fremantle. I will only touch on this one for members who are not familiar with the processes of the committee. It spells it out nicely and neatly for us here. The determination device at paragraph 4.20 on page 10 shows something that the committee really does not like to see in the wording. A clause in a local law used the words “local government” instead of “council” and the concern was that it could be inferred from the wording that the decision-making could be delegated to the executive of a local government authority, when that is not what we want to see happen. We want the local councils to be making decisions on behalf of ratepayers and residents. I think that is a good example in the six-month period we had in 2021 on the committee.

The DEPUTY CHAIR: The question is that the report be noted. I give the call to Hon Kyle McGinn.

Hon Martin Aldridge: Hear, hear!

Hon KYLE MCGINN: Looking forward to this, were you, honourable member? It is a privilege to stand and talk about the Joint Standing Committee on Delegated Legislation because I am no longer on it and I am absolutely devastated! It has been a hard couple of years not having to hear about local cat laws and work out just how many local governments are in Western Australia, particularly in the wheatbelt where there are so many. I think one of the big things for me is that the Western Australian Local Government Association as an organisation makes model clauses that it sends out to everybody to follow, yet local governments do not follow them. After joining WALGA and listening to what WALGA has to say, and from the disallowances that have gone through this chamber, we have found that if the local government had followed the model clause provided by WALGA, it would not have been disallowed, but instead it went on its own path. I learnt early on during my time on the delegated legislation committee that it was far better to listen to the experts than make up my mind without the knowledge.

I think it has been mentioned a few times but we in this chamber are always very respectful of the staff on committees. I hold the staff on the Standing Committee on Delegated Legislation in very high regard because the workload that they undertake each week, or two weeks or however long the break is between sitting weeks, is massive. They sift through hundreds and hundreds of local laws and find some of the smallest mistakes that could have detrimental effect on the local community, potential financially or worse. My hat goes off to all the staff who have ever worked on the delegated legislation committee because there is no doubt in my mind that it is one of the toughest jobs in the committees space.

I also acknowledge Hon Martin Pritchard, who was on the Standing Committee on Delegated Legislation whilst I was on that committee. He was preceded by only one grandfather of that committee who was on it at the time, the former member for the Mining and Pastoral Region, Hon Robin Chapple. I think he spent most of his political career on the delegated legislation committee. That was quite good because he understood and had probably seen 95 per cent of what we were looking at before, so he had just a vast amount of knowledge about why some of the mistakes would have been made in putting together local laws. It was a sad day when I was taken off the delegated legislation committee, I have to say.

Hon Stephen Dawson: Careful what you wish for!

Hon KYLE MCGINN: Hon Stephen Dawson, I am not wishing for that; I can assure you of that. I thoroughly enjoy the Standing Committee on Procedure and Privileges. In saying that, I would say that as a new member of Parliament it definitely was a very good committee to serve on to get an understanding of how government operates

and how the committee system operates. I remember that Hon Simon O'Brien, a former member of this place, was the inductor of new members into the committee process in 2017. He was a very interesting character. He put across very clearly, before we had even sat in this chamber or attended a committee meeting, that there is collaboration between all sides in this chamber in the committee process. We leave our party at the door when we enter that room. The delegated legislation committee to me was absolutely one of those times when I could sense everyone was in there working together and attempting not only to ensure that the local government's law was disallowed but also to find a way to fix it.

We will see through the report where the committee has endeavoured to assist local governments through the process not to scrap the law but to make the law workable and make it a bit easier. As I said earlier, particularly the wheatbelt has small councils that do not have large ratepayer bases. When they put the time into putting forward a local law, a lot of the time they spend a lot of money on engaging someone, and one slight mistake could see it in this place being disallowed. When I was on the delegated legislation committee, the team acknowledged how local governments invest in what they do with local laws, so it is not as simple as saying to go back to the drawing board, which means more financial investment and using ratepayers' money, which means fewer roads and less fixing up things in the town. It also means that whilst the law is not active, what the local government is trying to resolve sits there hanging in the wind. These can be quite long processes. The disallowances sit on the notice paper for 14 sitting days. Imagine if it were in June and then after the winter recess; it could be a very long time of not knowing whether that law is going to go through, and then potentially having to go back to the drawing board.

I will turn to appendix 1 in the report because I think that it highlights a very key part to the Local Government Act 1995, which is around the procedure for making local laws. It states pretty clearly —

- (1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.

I said earlier that the Western Australian Local Government Association, as the body that represents local governments, has the resources, information and model local laws that would assist local governments to follow the guidelines and ensure that a law is not disallowed. Meticulous grammar, ensuring that they understand the issue they are putting in—all things that members would not relate to me!—have to be done to get the local law right. The Joint Standing Committee on Delegated Legislation will see a law only if it is found to have something wrong with it, which will then be assessed by the committee. We would then see it in the chamber only if there was deemed to be an issue or a potential issue with it that needed further investigation. To ensure that a law does not go through and has to be withdrawn, the law could be subject to a disallowance motion to put it on hold. Members in this place will have noticed that many disallowance motions have been removed from the notice paper because it was deemed that the law was okay. The explanation given by the committee is that the committee investigated the local law and found that what was thought to be of concern was not causing damage or an issue, and so the local government was able to move forward with it.

I will run through the clause requiring a local government to give a public notice, which is really important. Many laws need to be advertised by the local government in the local government area to ensure that the ratepayers of that area are aware of the local law that the local government is trying to achieve. Clause 3 at chapter 3.12 states pretty clearly —

- (3) The local government is to —
 - (a) give local public notice stating that —
 - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;

I can think of small towns such as Leonora and Laverton where the local government building is on the main street, is very accessible and has community notice boards. To access the local law, I think most local governments would have an open-door policy of people going in and looking at the local laws and would ensure that people could get an understanding that a proposed local law could in fact become a law in that council very, very soon.

The report further states —

and

- (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and —
- (c) provide a copy of the proposed local law in accordance with the notice, to any person requesting it.

The CHAIR: The question is that the report be noted. Hon Kyle McGinn.

Hon KYLE MCGINN: I will continue my remarks. I could probably go back and reflect —

Hon Tjorn Sibma: Start again!

Hon KYLE MCGINN: Does the member want me to start again? It is a shame that I am no longer on the Joint Standing Committee on Delegated Legislation, although I am really enjoying the Standing Committee on Procedure and Privileges, I have to say.

Hon Tjorn Sibma: Good company.

Hon KYLE MCGINN: It is very good company and camaraderie on that committee.

The report continues —

- (c) provide a copy of the proposed local law in accordance with the notice, to any person requesting it.

That is very clear from what I said earlier about putting it on the local community notice board and providing access to local government. Let us be honest about when someone in a small community is interested in an issue.

I am sure that people like Hon Pierre Yang would be interested in the local cat laws. He would know that notice had been given to the community. He could go to his local government and talk to the administration about what that local law might look like and how it would affect him and his 15 cats!

I think that the procedure also involves people in the process of local government. At the state government level, we talk about trying to get people to interact with us and be aware and feel that this is the people's house. I think that local governments, through their local laws, interact with their communities on a very high level. I have not been a member of local government, but I have attended a lot of local government meetings when there has been heavy debate. There used to be. Now there are ways to stifle that, which I think will be rectified through the new local government legislation. If a matter is raised and is accepted by the council, it goes through a process under the Local Government Act about how to produce a local law. The councils go through that entire process. As I said, small councils probably have to pay to engage people to write the laws as well, depending on the CEO or the number of FTE within the organisation. The law would be produced and go to the delegated legislation committee. Once a law is deemed acceptable, that gives the council an opportunity to advertise and celebrate that win for the community to introduce the law into local government. I am sure that members who have been councillors will have succeeded in raising an issue as a councillor and following the process of going through the delegated legislation committee and the law being enacted in their local council. I think it is a great way for people in the community to engage with their council and get an understanding of the local laws to which they are subject. Normally, we would say that someone is not really aware of a law until they are dancing on the side of it and potentially about to break it. I am sure that the council is absolutely aware of them then!

I think that the delegated legislation committee plays a huge role. I acknowledge the section of the appendix of this report that I just went through, which gives a good understanding of what delegated legislation provides for the Council and the other place. I acknowledge also that it was definitely an experience working with members of the other place. It was different having committee members from the other place operating under different standing orders. I know that at times some things have been raised in this chamber around the standing orders in the other place compared with the standing orders of this place, but during the majority of the four years I spent on the delegated legislation committee, I found that we were able to find a way through.

I once again acknowledge Hon Robin Chapple, who was like an encyclopedia of local laws. Unfortunately, he is not so good at driving white cars through mud holes out in Kalgoorlie, but he absolutely enjoyed being on the delegated legislation committee. It was an honour for me to learn from him and Hon Martin Pritchard bouncing off each other on Wednesday mornings about delegated legislation. I absolutely cherish the four years I had on that committee. Thank you, members.

Question put and passed.

Progress reported and leave granted to sit again, pursuant to standing orders.