

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Fifty-first Report — “Town of Bassendean Repeal Local Law 2010 and Town of Bassendean Dust and Sand Local Law 2011” — Tabling

HON SALLY TALBOT (South West) [10.07 am]: I am directed to present the fifty-first report of the Joint Standing Committee on Delegated Legislation in relation to the Town of Bassendean Repeal Local Law 2010 and Town of Bassendean Dust and Sand Local Law 2011.

[See paper 4823.]

Hon SALLY TALBOT: On behalf of the committee, I make the following statement. The Joint Standing Committee on Delegated Legislation recommends that the house disallow these two local laws because the Town of Bassendean has not followed the mandatory, sequential procedure to make a local law prescribed in the Local Government Act 1995. The committee has found itself in the position—I point out to honourable members that this is the fifth time the committee has found itself in this position—of having to recommend the disallowance of local laws based on noncompliance with the steps outlined in section 3.12 of the Local Government Act. The Town of Bassendean gave statewide public notice of its two local laws before it gave the minister copies of those notices and copies of the proposed local laws. The act states this must be done in the reverse order. Although the time frame involved came down to only one day and is relatively minor in the overall process of making a local law, the wording of section 3.12(1) is clear: if a council does not complete the procedure in the correct order, its local law will not be validly made.

The committee resolved to also recommend that the Minister for Local Government amend the wording of section 3.12 to provide for flexibility in circumstances in which there is no adverse impact on the integrity of a local law. The committee feels constrained to have to recommend disallowance of a local law that has not strictly followed the steps in section 3.12 when this contravention has not resulted in any damage or adverse impact on any relevant stakeholder. The committee considers that the insertion of an element of flexibility or discretion into the procedure in section 3.12 would add to the act’s workability, while still maintaining the integrity of the local law-making process. In the case of the Town of Bassendean’s local laws, the committee found no issue with the substance of any of the provisions, but was forced to recommend the disallowance of the local laws due to noncompliance with the steps in section 3.12. The committee’s recommendation in the disallowance report addresses this unreasonable burden on local governments and on the committee’s scrutiny role.

I commend the report to the house.