



**THIRTY-EIGHTH PARLIAMENT**

**JOINT STANDING COMMITTEE ON DELEGATED  
LEGISLATION**

**SPECIAL REPORT**

**IN RELATION TO THE**

***CITY OF PERTH STANDING ORDERS AMENDMENT  
LOCAL LAW 2012***

Presented by Mr Paul Miles MLA (Chairman)

and

Hon Sally Talbot MLC (Deputy Chair)

October 2012

## JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

### Date first appointed:

28 June 2001

### Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

**“3. Joint Standing Committee on Delegated Legislation**

- 3.1 A *Joint Standing Committee on Delegated Legislation* is established.
- 3.2 The Committee consists of 8 Members, 4 of whom are appointed from each House. The Chairman must be a Member of the Committee who supports the Government.
- 3.3 A quorum is 4 Members of whom at least one is a Member of the Council and one a Member of the Assembly.
- 3.4 A report of the Committee is to be presented to each House by a Member of each House appointed for the purpose by the Committee.
- 3.5 Upon its publication, whether under section 41(1)(a) of the *Interpretation Act 1984* or another written law, an instrument stands referred to the Committee for consideration.
- 3.6 In its consideration of an instrument, the Committee is to inquire whether the instrument –
- (a) is authorized or contemplated by the empowering enactment;
  - (b) has an adverse effect on existing rights, interests, or legitimate expectations beyond giving effect to a purpose authorized or contemplated by the empowering enactment;
  - (c) ousts or modifies the rules of fairness;
  - (d) deprives a person aggrieved by a decision of the ability to obtain review of the merits of that decision or seek judicial review;
  - (e) imposes terms and conditions regulating any review that would be likely to cause the review to be illusory or impracticable; or
  - (f) contains provisions that, for any reason, would be more appropriately contained in an Act.
- 3.7 In this clause –
- “**adverse effect**” includes abrogation, deprivation, extinguishment, diminution, and a compulsory acquisition, transfer, or assignment;
- “**instrument**” means –
- (a) subsidiary legislation in the form in which, and with the content it has, when it is published;
  - (b) an instrument, not being subsidiary legislation, that is made subject to disallowance by either House under a written law;
- “**subsidiary legislation**” has the meaning given to it by section 5 of the *Interpretation Act 1984*.”

### Members as at the time of this inquiry:

Mr Paul Miles MLA (Chairman)  
Hon Helen Bullock MLC  
Hon Jim Chown MLC  
Hon Alyssa Hayden MLC

Hon Sally Talbot MLC (Deputy Chair)  
Mr Vincent Catania MLA  
Ms Janine Freeman MLA  
Mr Andrew Waddell MLA

### Staff as at the time of this inquiry:

Felicity Mackie (Advisory Officer (Legal))  
Suzanne Veletta (Advisory Officer)

Anne Turner (Advisory Officer (Legal))  
Talweez Senghera (Committee Clerk)

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**SPECIAL REPORT OF THE JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION**

**SPECIAL REPORT IN RELATION TO THE *CITY OF PERTH STANDING ORDERS AMENDMENT LOCAL LAW 2012***

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**1 PURPOSE OF THIS SPECIAL REPORT**

- 1.1 In Report 55, tabled on 13 September 2012, the Joint Standing Committee on Delegated Legislation (**Committee**) recommended that the *City of Perth Standing Orders Amendment Local Law 2012* (**Amendment Local Law**) be disallowed.
- 1.2 The basis for the recommendation was that the City of Perth acknowledged, by letter dated 6 July 2012, that it had failed to follow the sequential steps for making a local law prescribed in section 3.12(3)(b) of the *Local Government Act 1995* (**Act**). This resulted in the Committee taking the position that the Amendment Local Law was non-compliant with the Act and invalid.
- 1.3 Since tabling Report 55, fresh evidence has been submitted to the Committee indicating that the City of Perth was in fact compliant with the sequential process demanded of section 3.12 of the Act. That evidence was provided by the Department of Local Government on 3 October 2012 and is attached as **Appendix 1**.
- 1.4 The fresh evidence reveals that although the City of Perth wrote to the Minister on 8 February 2012 enclosing both a copy of the proposed Amendment Local Law and a copy of the Statewide public notice, the Minister received those items on 17 February 2012, two days after Statewide public notice had been given. The Minister's date stamped letter shows the Amendment Local Law was compliant with section 3.12 of the Act and thus, valid.
- 1.5 In light of this fresh evidence, the Committee will move that at the next sitting day, Order of the Day Number 2 - *City of Perth Standing Orders Amendment Local Law 2012 – Disallowance* be discharged from the Notice Paper



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**Mr Paul Miles MLA**  
**Chairman**

**25 October 2012**



# APPENDIX 1

## LETTER INDICATING RECEIPT OF REQUISITE DOCUMENTS

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Enquiries to: Natasha Hilton  
Corporate Support (9461 3202)  
Email: natasha.hilton@cityofperth.wa.gov.au

8 February 2012

The Hon John Castrilli MLA  
Minister for Local Government  
12<sup>th</sup> Floor, Dumas House  
2 Havelock Street  
West Perth WA 6005

Dear Mr Castrilli

### City of Perth Standing Orders Amendment Local Law 2012

In accordance with Section 3.12 of the Local Government Act 1995 (Act), at its meeting held on 31 January 2012, the Council of the City of Perth resolved to give public notice of its intention to make the City of Perth Standing Orders Amendment Local Law 2012.

The City will issue Statewide and local public notice of the Council's intent to make the City of Perth Standing Orders Amendment Local Law 2012 in accordance with Sections 3.12(3)(a) and 3.12(3a) of the Act respectively, on Wednesday, 15 February 2012.

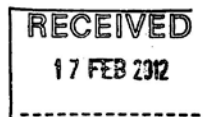
Pursuant to Section 3.12(3)(b) of the Act, please find enclosed a copy of the public notice to be issued in respect of the City of Perth Standing Orders Amendment Local Law 2012 and a copy of the proposed local law for your review. Also included for your reference is a copy of the minutes of the Council meeting at which the resolution to give public notice was made.

Should you have any queries regarding this correspondence please do not hesitate to contact the City's Governance Coordinator, Natasha Hilton, on 9461 3202.

Yours sincerely

  
FRANK EDWARDS  
CHIEF EXECUTIVE OFFICER

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CITY of PERTH

File No	DLG
Relationship	
Date	20 FEB 2012
Action Officer 1	
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