



JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Your Ref: LE.LL
Our Ref: 3924:16:SV

Councillor Kerry White
President
Shire of Ashburton
P.O Box 567
TOM PRICE WA

By email: soa@ashburton.wa.gov.au, attention Ms Leanne Lind

14 August 2014

Dear President

Shire of Ashburton Fencing Local Law 2014

I refer to the above Local Law.

The Joint Standing Committee on Delegated Legislation considered this Local Law at its meeting on 13 August 2014.

For the reasons outlined in the Committee's further letter to you dated 14 August 2014, the Committee has resolved not to recommend to Parliament that this law be disallowed on the basis that the Shire failed to follow section 3.12 of the *Local Government Act 1995 (LG Act)*.

However, as noted in our letter dated 15 May 2014, the Committee identified the following issues with the Local Law and seeks specific undertakings that you will address these matters.

Clause 6.3(a) and (b) – Form of Notices

Clause 6.3 states:

6.3 Form of Notices

For the purpose of this local law –

(a) the form of the infringement referred to in sections 9.16 and 9.17 of the Local Government Act 1995 is to be in or substantially in the Form 2 of Schedule 1 of the Local Government (Functions and General) Regulations 1996; and

(b) the form of the withdrawal of infringement notice referred to in section 9.20 of the Local Government Act 1995 is to be in or substantially in the Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.

Given neither regulation 26 nor 27 of the *Local Government (Functions and General) Regulations 1996* or sections 9.16 or 9.17 of the *Local Government Act 1995* refer to Forms 2 and 3 in terms of substantial compliance, the words '*or substantially in*' should be deleted from clause 6.3(a) and (b).

Abbreviated references to Australian standards

There are a number of abbreviated references to 'AS1170', 'AS2870-1996' and 'AS2870-2011' in the Local Law. References to standards should, as a matter of practice, refer to the full title of the standard for the sake of certainty.

Committee requests

The Committee requests that the Council of the Shire of Ashburton provide an undertaking to:

- a) Amend the Local Law to delete '*or substantially in*' from clauses 6.3(a) and (b) within 12 months.
- b) Amend the Local Law to refer to the full title of Standards within 12 months.
- c) Not enforce clauses 6.3(a) and (b) in a manner contrary to the undertakings.
- d) Make all consequential amendments arising from the undertakings.
- e) Provide the Committee with a copy of the minutes of the meeting at which the Council resolves to provide the undertakings.
- f) Where the Local Law is made publicly available, whether in hard copy or electronic form, that the law be accompanied by a copy of these undertakings.
- g) Provide access to Standards referred to in the Local Law at a Shire office and public libraries, and advise on your website where the Standards can be accessed free of charge.

The Committee requests the Council's response to the above requests by **Friday, 5 September 2014**.

The Notice of Motion to disallow this Local Law was tabled in the Legislative Council on 14 August 2014. This is a precautionary procedure to protect the Committee's ability to disallow the law if the undertakings are not provided. (The *Interpretation Act 1984* procedure requires that the notice to disallow must be tabled by 14 August 2014). The Committee will consider rescinding this notice to disallow if the Shire provides the above undertakings.

If you have any questions, please contact Suzanne Veletta, Advisory Officer (Legal), on 9222 7250 or at delleg@parliament.wa.gov.au.

Yours sincerely



Mr Peter Abetz MLA
Chairman