

2.2 - LOCAL LAW REVIEW

WARD : ALL
FILE No. : M/1004/15
DATE : 30 October 2015
REF : NP
RESPONSIBLE : Executive Director
MANAGER : Corporate Services

In Brief:

- In accordance with Council's prior resolution (CS81/9/15) the process of amending the Standing Orders, Activities and Trading in Thoroughfares and Public Places and the Fencing Local Laws has recommenced.
- Recommend that Council confirm the proposed amendments as presented in this report and invite public comment as required under the *Local Government Act 1995*.

Tabled Items

Nil

Officer Interest Declaration

Nil

Strategic Implications

- 4.1 Good Governance and Leadership
 - 4.1.2 Ensure governance policies, procedures and activities align with legislative requirements and best practice
- 4.5 Effective and Efficient Administrative Services
 - 4.5.1 Ensure compliance of relevant Council policies and procedures with legislative and organisational requirement
 - 4.5.2 Provide professional administrative services to support Council operations and services

Legislation Implications

Local Government Act 1995 Section 3.12 – Procedure for making local laws.

Council Policy/Local Law Implications

- Standing Orders Local Law 2000
- Activities and Trading in Thoroughfares and Public Places Local Law
- Fencing Local Law 2011

Budget/Financial Implications

Advertising costs of approximately \$3,000

Consultation

1. Relevant Directorates
2. Department of Local Government and Communities (DLGC)
3. Joint Standing Committee on Delegated Legislation (JSCDL)
4. Council's Standing Order House Advisory Group (SOHAG)
5. City's solicitors

BACKGROUND

Council on 23 March 2015 resolved (CS24/3/15) its intent to amend the following local laws:

- Local Government Activities and Trading in Thoroughfares and Public Places Local Law
- Extractive Industries Local Law
- Bushfire Control Local Laws
- Fencing Local Law
- Environment, Animals and Nuisance Local Laws
- Health Local Laws
- Removal of Refuse, Rubbish and Disused Materials Local Laws
- Local Government Property Local Law
- Parking and Parking Facilities Local Law
- Standing Orders Local Law
- Dogs Local Laws

Council also confirmed its intent to adopt the Livestock in Public Places and Wandering at Large Local Law.

Council at its meeting on 29 September 2015 resolved (CS81/9/15):

That Council:

1. *not adopt the following local laws due to additional amendments required being significantly different to that previously proposed:*
 - *Standing Orders Amendment Local Law 2015*
 - *Activities and Trading in Thoroughfares and Public Places Amendment Local Law 2015*
 - *Fencing Amendment Local Law 2015*
2. *in accordance with the provisions of Section 3.13 of the Local Government Act 1995 recommence the process for amending those local laws in 1 above.*

DETAILS OF PROPOSAL

It is proposed to amend the following local laws:

- City of Armadale Standing Orders Local Law 2000
- City of Armadale Activities and Trading in Thoroughfares and Public Places Local Law
- City of Armadale Fencing Local Law 2011

COMMENT

ANALYSIS

These three (3) local laws had previously been presented to Council in March 2015 for amendment however following feedback from both the DLGC and the JSCDL, further analysis by officers and legal advice it was recommended to Council in September 2015 to not adopt these amendment local laws due to there being significant changes from what was originally proposed, and that the process recommence.

It was advised that the amendments to these local laws would be presented in greater detail once completed.

A summary of these proposed amendments is now provided as follows:

Standing Orders Local Law

The following amendments to the City's Standing Orders bring them in line with WALGA's model local laws and are consistent with advice received from the DLGC and the JSCDL:

- Legislative and minor amendments
- Additional definitions included in clause 1.3
- Clause 3.3 – Public Question Time
This has been amended to read “The procedure for Public Question Time is dealt with in the Act” rather than “The procedure for Public Question Time shall be determined by the person presiding in accordance with Council Policy 5.1.29”.
- Clause 3.4 – Petitions
 - (i) Additional subclauses have been added to allow petitions to be presented to Council by a member only and how they are dealt with.
 - (ii) Two subclauses have been deleted on advice from the DLGC as they are not considered petitions.
- Clause 4.2 – Confidentiality of Information Withheld
A new clause added which provides that a member of Council or a committee or an employee can disclose confidential information if they disclose it to their lawyer or government officer for the purpose of seeking advice to lawfully fulfil their role and responsibilities.
- Clauses 5.1 to 5.3 – Member with an Interest may ask to be Present – Member with an Interest may ask Permission to Participate – Invitation to Return to Provide Information
These clauses have been deleted on advice that the JSCDL has determined these clauses to be problematic since they can potentially exclude councillors from participating in meetings in situations not contemplated by the Act.
- Clause 6.2 – Loss of Quorum During a Meeting
Rather than suspending proceedings of the meeting for ten minutes it has been amended to read up to ten minutes.
- Clause 8.6 – Prevention of Disturbance
Two new clauses added to prevent mobile phones and pagers to be used during a meeting.
- Clause 9.4 – Relevance
Two additional clauses added enabling the presiding member to take action against a member for any irrelevant or repetitious remarks.
- Clause 13.1 – Question – When Put
A new clause added stating that a member must not leave the meeting when the presiding member is putting a motion.
- Clause 14.1 – Implementation of a Decision
Upon legal advice this clause has been amended and two additional clauses have been added to protect the City’s decisions against legal challenge.
In essence the City’s solicitors have advised that they do not think it is open to a Council to resolve to revoke or amend a planning approval which has been communicated to an applicant.
- Part 18 – Meeting of Electors
New clauses added to deal with electors meetings.
- Part 20 – Common Seal
Clauses have been deleted as these are captured by legislation.

Activities and Trading in Thoroughfares and Public Places Local Law

- Grammatical, legislative and minor amendments
- Removal of second headings in all clauses
- Clause 5.20 – Commercial wildflower harvesting
This clause has been amended to apply to any wildflower harvesting not just commercial.
- Clause 6.1 – Interpretation