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Your ref: A706333
Our ref: NLM201882000

22 August 2018

Ms Emily Hamilton MLA
Chairman
Joint Standing Committee on Delegated Legislation
Parliament House, West Perth
Western Australia 6005

Dear Madam,

RE: Shire of Dundas Standing Orders Local Law 2018

Thank you for your letter dated 15 August 2018.

Please note that the Council of the Shire of Dundas at its ordinary meeting held on the 21st August 2018 resolved the followings:

“That the Joint Standing Committee on Delegated Legislation be advised that the Council of the Shire of Dundas undertakes:

- 1. Within 6 months, amend the Local Law to:**
 - Delete clauses 15.1 to 15.6
 - Incorporate the content of clause 15.6(2) and 15.6(3) into clause 14.10
 - Make all necessary consequential amendments
- 2. Until the Local Law is amended in accordance with undertaking 1:**
 - Not to enforce the Local Law in a manner contrary to undertaking 1.
 - Where the Local Law is made publicly available, whether in hard copy or electronic form (including on the Shire's website), ensure that it is accompanied by a copy of these undertakings.”

An extract from the unconfirmed meeting minutes is attached herewith for your kind perusal.

Should you have any questions or require further clarification please do not hesitate to contact me.

Yours sincerely

A handwritten signature in blue ink, appearing to be "L. Bonza", written over a faint horizontal line.

Laurene Bonza
Shire President

Agenda Reference & Subject	
12.1 – Joint Standing Committee on Delegated Legislation – Standing Orders Local Law 2018	
Location / Address	Shire of Dundas
File Reference	LE.LO
Author	Gihan Kohobange
Date of Report	20 th August 2018
Disclosure of Interest	Nil

Summary

For the Council to respond to the Joint Standing Committee on Delegated Legislation in relation to Shire of Dundas Standing Orders Local Law 2018.

Background

The Joint Standing Committee on Delegated Legislation has written to the Shire requesting that the Council respond by resolution to an error in clauses 14 and 15 of the Local Law. The confidential and privileged letter sent by the Joint Standing Committee on Delegated Legislation is attached herewith.

Statutory Environment

Joint Standing Committee on Delegated Legislation

Policy Implications

N/A

Financial Implications

Additional costs to the Shire for statutory advertising and gazetting processes.

Strategic Implications

The “protective” notice of motion in the Legislative Council to disallow the local law would make the local law ineffective and unable to be utilised by the Shire. The proposed resolution would satisfy the Joint Standing Committee

Consultation

CEO, Richard Brookes and Joint Standing Committee on Delegated Legislation.

Comment

The Committee has identified an error in clauses 14 and 15 of the Local Law.

Clause 14 sets out the possible procedural motions that can be moved by Councillors at meetings. These include:

- That the meeting move to the next item of business (c1 14.5)
- That debate be adjourned (c1.14.6)
- That the Council do now adjourn (c1.14.7)
- That the question be now put (c1.14.8)
- That the Councillor be no longer heard (c1.14.9)
- That the ruling of the Presiding Member be disagreed with (c1.14.10)

Clause 15 then sets out the effect of certain procedural motions, including those listed above.

The Committee is of the view that clause 15 largely duplicates the content of clause 14. The effect of this is that the duplication of the clauses creates uncertainty and the clauses should be amended to remove the duplication.

For this reason, the Committee requests that the Shire of Dundas provide undertakings that the Shire will:

1. Within 6 months, amend the Local Law to:
 - Delete clauses 15.1 to 15.6
 - Incorporate the content of clause 15.6(2) and 15.6(3) into clause 14.10
 - Make all necessary consequential amendments
2. Until the Local Law is amended in accordance with undertaking 1:
 - Not to enforce the Local Law in a manner contrary to undertaking 1.
 - Where the Local Law is made publicly available, whether in hard copy or electronic form (including on the Shire's website), ensure that it is accompanied by a copy of these undertakings.

This undertakings should be given in the form of a letter signed by the Shire President.

The Committee requests that the undertakings be provided to the Committee by 20 September 2018.

The Council will be aware that the Shire of Dundas Standing Orders Local Law 2018 has already been adopted by the Council at its ordinary meeting in May 2018.

In order to satisfy the Joint Standing Committee on Delegated Legislation of the Councils intentions and to ensure that the local law is not disallowed, the recommendation is put forward for adoption

Voting Requirements

Simple Majority

Officer Recommendation

That the Joint Standing Committee on Delegated Legislation be advised that the Council of the Shire of Dundas undertakes:

1. **Within 6 months, amend the Local Law to:**
 - a. **Delete clauses 15.1 to 15.6**
 - b. **Incorporate the content of clause 15.6(2) and 15.6(3) into clause 14.10**
 - c. **Make all necessary consequential amendments**
2. **Until the Local Law is amended in accordance with undertaking 1:**
 - a. **Not to enforce the Local Law in a manner contrary to undertaking 1.**

- b. Where the Local Law is made publicly available, whether in hard copy or electronic form (including on the Shire's website), ensure that it is accompanied by a copy of these undertakings.**

Moved Cr: Bayley
Seconded Cr: Hogan

Resolution

That the Joint Standing Committee on Delegated Legislation be advised that the Council of the Shire of Dundas undertakes:

- 1. Within 6 months, amend the Local Law to:**
 - a. Delete clauses 15.1 to 15.6**
 - b. Incorporate the content of clause 15.6(2) and 15.6(3) into clause 14.10**
 - c. Make all necessary consequential amendments**
- 2. Until the Local Law is amended in accordance with undertaking 1:**
 - a. Not to enforce the Local Law in a manner contrary to undertaking 1.**
 - b. Where the Local Law is made publicly available, whether in hard copy or electronic form (including on the Shire's website), ensure that it is accompanied by a copy of these undertakings.**

Carried by: Simple Majority

For: 6

Against: 0