

SHIRE OF KELLERBERRIN CEMETERIES LOCAL LAW 2014 — DISALLOWANCE
SHIRE OF KELLERBERRIN ACTIVITIES ON THOROUGHFARES AND TRADING IN
THOROUGHFARES AND PUBLIC PLACES LOCAL LAW 2014 — DISALLOWANCE
SHIRE OF KELLERBERRIN LOCAL GOVERNMENT (COUNCIL MEETINGS) LOCAL LAW 2014
— DISALLOWANCE
SHIRE OF KELLERBERRIN FENCING LOCAL LAW 2014 — DISALLOWANCE

Cognate Debate — Motion

On motion without notice by **Hon Peter Collier (Leader of the House)**, resolved —

That orders of the day 1, 2, 3 and 4 be debated cognately.

Motion — Cognate Debate

Pursuant to standing order 67(3), the following motions by Hon Robin Chapple were moved pro forma on 26 February —

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the Shire of Kellerberrin Cemeteries Local Law 2014 published in the *Government Gazette* on 15 October 2014 and tabled in the Legislative Council on 21 October 2014 under the Cemeteries Act 1986, be and is hereby disallowed.

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the Shire of Kellerberrin Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2014 published in the *Government Gazette* on 15 October 2014 and tabled in the Legislative Council on 21 October 2014 under the Local Government Act 1995, be and is hereby disallowed.

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the Shire of Kellerberrin Local Government (Council Meetings) Local Law 2014 published in the *Government Gazette* on 15 October 2014 and tabled in the Legislative Council on 21 October 2014 under the Local Government Act 1995, be and is hereby disallowed.

That, pursuant to recommendation of the Joint Standing Committee on Delegated Legislation, the Shire of Kellerberrin Fencing Local Law 2014 published in the *Government Gazette* on 15 October 2014 and tabled in the Legislative Council on 21 October 2014 under the Local Government Act 1995, be and is hereby disallowed.

HON ROBIN CHAPPLE (Mining and Pastoral) [4.07 pm]: In relation to these four regulations that came before the Joint Standing Committee on Delegated Legislation, it is the view of the committee that the Shire of Kellerberrin did not follow the correct procedures when it made the four local laws. In making a local law, a local government must follow a procedure set out in section 3.12 of the Local Government Act 1995 in the sequence in which it is described. This includes a requirement under section 3.12(3)(b) to provide the minister with a copy of the proposed local law and the statewide notice of the local law as soon as the statewide public notice of the proposed local law is given. The four local laws that we are dealing with cognately here are invalid because the shire did not provide the minister with copies of the four proposed local laws and the statewide public notice. Further, the shire did not comply with section 3.12(6) of the Local Government Act 1995, which concerns communicating to users of local laws important details of when they become operational, their purpose and, significantly, access details for public inspection. Unfortunately, the four local laws offend the Joint Standing Committee on Delegated Legislation's term of reference 10.6(a) because they are not within the power of the act.

The committee has provided the house with a brief report that explains the committee's decision-making process. There are five recommendations arising from the report. The committee recommends that the Shire of Kellerberrin Cemeteries Local Law 2014 be disallowed, the Shire of Kellerberrin Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2014 be disallowed, the Shire of Kellerberrin Local Government (Council Meetings) Local Law 2014 be disallowed and the Shire of Kellerberrin Fencing Local Law 2014 be disallowed. The committee also recommends that the Minister for Local Government investigate the ongoing capacity of the Shire of Kellerberrin to make local laws and provide additional assistance to the shire on the procedures for making local laws.

It is unfortunately the job of the Joint Standing Committee on Delegated Legislation to often deal with these issues. The committee considered the four local laws made pursuant to the general local government law-making power in section 3.5(1) of the act at its meeting on 18 February 2015. Subsequently, after discussion with the shire and after correspondence backwards and forwards, the committee came to a number of conclusions. The committee decided that the instrument was not within power and that the four local laws were invalid for the reasons of noncompliance with sections 3.12, 3.12(3)(b) and subsection (6) of the act.

There was some correspondence associated with the report, and in response the council acknowledged its failure to comply with section 3.12(3)(b) by not providing a copy of the notice to the minister as soon as it was issued and its failure to comply with section 3.12(6) by not advertising the local laws locally after gazetting the local law. Those errors and omissions of the manager are an oversight of process. The council also asked the joint standing committee to understand that the omissions were not deliberate, as this was the first time the process had been undertaken by the officer involved. The council also asked the joint standing committee to allow the council to fix the noncompliant issues and permit the local laws to stand as the process is very expensive for a council the size of the Shire of Kellerberrin.

The committee was obviously concerned that it was an expensive exercise but the committee did not have the ability to consider anything that is unlawful. Unfortunately, the council said that it would cost it over \$6 000 and that is why the committee has recommended that the Minister for Local Government investigate the ongoing capacity of the Shire of Kellerberrin to make local laws and to provide some assistance to the shire on the procedures for making local laws.

It is with a heavy heart, but without any malice, that the committee cannot accept these four local laws and we would urge the council to support disallowance of these instruments.

Debate interrupted, pursuant to temporary orders.

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Sitting suspended from 4.15 to 4.30 pm