

10.4.5 Health Amendment Local Law

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	Not Applicable
File Ref:	D-20-21362
Meeting Date:	24 March 2020
Author(s):	Bernadine Tucker, Manager Governance
Reporting Officer(s):	Geoff Glass, Chief Executive Officer
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

Summary

This report considers an undertaking that is to be provided to the Joint Standing Committee on Delegated Legislation relating to the recently adopted City of South Perth Health Amendment Local Law 2019.

0320/035

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor André Brender-A-Brandis

Seconded: Councillor Glenn Cridland

That Council resolves to provide an undertaking to the Joint Standing Committee on Delegation Legislation that when the City of South Perth Health Amendment Local Law 2019 is next amended or reviewed, that the City will:

1. (a) Amend Clause 47 to provide clarity that the 'second' instance of Clause 130 in the Principal Local Law is being amended.
- (b) Make all necessary consequential amendments.

And that until the Local Law is amended in accordance with undertaking 1:

2. (a) The City will not 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 City's website), ensure that it is accompanied by a copy of these undertakings.

CARRIED BY EXCEPTION RESOLUTION (8/0)

For: Mayor Greg Milner and Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Glenn Cridland, Blake D'Souza, Ken Manolas, Stephen Russell.

Against: Nil.

Background

In accordance with section 3.16 of the *Local Government Act 1995* (the Act), local governments are required, within a period of eight years, to review their local laws to determine whether or not it considers the local law should be repealed or amended. The Health Local Law 2002 was published in the Government Gazette on 22 November 2002 and commenced on 6 December 2002. This local law had one review in 2012 where Council resolved not to pursue the review until the Public Health Act was proclaimed. The Public Health Act was subsequently proclaimed in 2016.

In accordance with the Act, a review was completed that identified amendments to the local law were necessary. Some provisions of the local law were superseded with the introduction of the *Public Health Act 2016* and the *Cat Act 2011*. Therefore, to ensure the City of South Perth Health Local Law 2002 was in keeping with current legislation and administrative requirements, minor amendments were required.

In accordance with the Council resolution from 25 June 2019 and section 3.12(3) of the Act, statewide public notice of the City's intention to make the local law was advertised in the West Australian newspaper on 10 July 2019, the Southern Gazette on 11 July 2019 and the City's website with the closing date for public submissions being 30 August 2019. A copy was provided to the Minister for Local Government; Heritage; Culture and the Arts and to the Deputy Premier; Minister for Health; Mental Health in accordance with sections 3.12(3)(a) and 3.12(3)(b) respectively.

The City received only one submission in relation to the proposed local law, that being from the Department of Local Government, Sport and Cultural Industries (the Department) suggesting formatting improvements.

At its meeting held 26 November 2019, Council subsequently resolved as follows:

That Council, pursuant to section 3.12 of the Local Government Act 1995, make the City of South Perth Health Amendment Local Law 2019 as contained in Attachment (a) which provides a statutory means to effectively control issues that have the ability to adversely impact on the health and well-being of the community.

As Council resolved to make the City of South Perth Health Amendment Local Law 2019, the City was required to publish the local law in the Government Gazette, provide a copy to the Minister for Local Government; Heritage; Culture and the Arts and to the Deputy Premier; Minister for Health; Mental Health, and to give local public notice that the local law has been made. In addition, the City was required to provide a copy of the local law and an explanatory memorandum prepared in accordance with the Minister's Local Laws Explanatory Memoranda Directions 2010 to the State Government's Joint Standing Committee on Delegated Legislation.

Comment

The City has now received a letter from the Joint Standing Committee on Delegated Legislation that recognised the original local law contained a numbering error that the current City of South Perth Health Amendment Local Law 2019 sought to correct. However, correcting this error could create some confusion with clause 130.

Clause 130(2) was amended by deleting the words “Manager, Environmental Health & Regulatory Services” and inserting the words “City”. However, with the renumbering of all the clauses to correct the error, it was unclear whether the original clause 130(2) was to be amended or the renumbered clause 130(2). Therefore, the Joint Standing Committee on Delegated Legislation required an undertaking that this would be corrected when the City next reviewed or amended the Health Local Law 2002.

The Joint Standing Committee on Delegated Legislation requires Council to make this resolution by 31 March 2020.

Consultation

Nil.

Policy and Legislative Implications

Part 3, Division 2 of the *Local Government Act 1995*.

Financial Implications

Nil

Strategic Implications

This matter relates to the following Strategic Direction identified within Council’s [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Leadership
Aspiration:	A visionary and influential local government
Outcome:	Good governance
Strategy:	Empower effective and quality decision-making and governance

Attachments

Nil