

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

*Seventy-sixth Report — “City of Greater Geraldton Animals, Environment and Nuisance Local Law 2014” —
Tabling*

MR P. ABETZ (Southern River) [9.57 am]: I present for tabling the seventy-sixth report of the Joint Standing Committee on Delegated Legislation.

[See paper 2396.]

Mr P. ABETZ: This report recommends the disallowance of part 2 and items 1 to 22 of schedule 1 only of the City of Greater Geraldton Animals, Environment and Nuisance Local Law 2014 because the Executive Director of Public Health did not give consent prior to the making of part 2 of the local law as required by section 342 of the Health Act 1911. The recommendation about items 1 to 22 of schedule 1 is consequential, as these items relate to offences prescribed in part 2. Part 2 of the local law regulates the keeping of animals and deals with subject matter that falls within the local law-making powers in section 199 of the Health Act 1911. The remainder of the local law is made under the lawmaking power in section 3.5 of the Local Government Act 1995 and is therefore unaffected.

Hon Michael Mischin, the Attorney General, has advised the committee that the consent of the Executive Director of Public Health is required under section 342 of the Health Act 1911 for any part of a law when the subject matter of the law falls within the area identified in the Health Act 1911. The Minister for Health has advised that no such consent was given and he does not take issue with the committee recommending the disallowance of part 2 of the local law. The committee wishes to make it clear that the validity issue with part 2 of the local law arises through no fault on the part of the City of Greater Geraldton or its officers.

The committee concludes that part 2 of the local law is invalid because the procedural requirement in section 342 of the Health Act 1911 was not complied with. Part 2 therefore offends the committee’s term of reference 10.6A in that it is not within the power of the empowering act. The committee recommends that part 2 and items 1 to 22, schedule 1 of the local law be disallowed. I commend the report to the house.