

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Eighty-fifth Report — “Albany Cemetery Board By-Laws Amendment” — Tabling

MR P. ABETZ (Southern River) [9.59 am]: I table the eighty-fifth report of the Joint Standing Committee on Delegated Legislation entitled “Albany Cemetery Board By-laws Amendment”.

[See paper 4443.]

Mr P. ABETZ: The report advises the house of the committee’s findings and recommendations following its scrutiny of the Albany Cemetery Board By-laws Amendment under paragraph 10.5 of schedule 1 to the Legislative Council standing orders. The committee recommends that the instrument tabled in this house on 17 February 2016 be disallowed. By virtue of section 54(2) of the Cemeteries Act 1986, by-laws made by the Cemetery Board must be made in accordance with subdivision 2 of division 2 of part 3 of the Local Government Act 1995. Those are the provisions for making local laws by local governments and they require a cemetery by-law or an amendment to a cemetery by-law to be given statewide public notice and local notice with public submissions invited. A copy of the by-law and the notice publishing it must also be sent to the Minister for Local Government. In the case of the Albany Cemetery Board, none of these compulsory and sequential steps were taken. In that event, the committee found that the Albany Cemetery Board had acted outside the powers granted to it under the Cemeteries Act 1986 and that the instruments should therefore be disallowed. I commend the report to the house.

Eighty-sixth Report — “Shire of Kellerberrin Dogs Local Law 2015” — Tabling

MR P. ABETZ (Southern River) [10.00 am]: I table the eighty-sixth report of the Joint Standing Committee on Delegated Legislation regarding the Shire of Kellerberrin Dogs Local Law 2015.

[See paper 4444.]

Mr P. ABETZ: The report that I have just tabled advises the house of the committee’s findings and recommendations following its scrutiny of the Shire of Kellerberrin Dogs Local Law 2015, under paragraph 10.5 of schedule 1 to the Legislative Council standing orders. The committee recommends that the instrument gazetted on 19 January 2016 be disallowed.

Subdivision 2 of division 2 of part 3 of the Local Government Act 1995 sets out mandatory, sequential procedures for the making of local laws such as this one. In particular, section 3.12(3)(b) requires the local government to provide the Minister for Local Government with copies of the proposed local law and its statewide public notice. This requirement was not met. Being invalidly made, the local law offends the committee’s term of reference 10.6(a) in that it is not within power of the empowering enactment, and the committee recommends that the law be disallowed.

On 12 March 2015, the committee tabled its eightieth report, which recommended the disallowance of four other local laws made by the Shire of Kellerberrin because, again, the correct procedures for making those laws had not been followed. Those four local laws were disallowed by the Legislative Council on 13 May 2015. Recommendation 5 of the eightieth report was 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 regarding the procedure for making local laws. The committee has been advised that the recommended additional assistance has indeed been provided by the Department of Local Government and Communities. However, the same mistake has been made by the Shire of Kellerberrin in the making of this Dogs Local Law, and the committee therefore repeats recommendation 5 of the eightieth report that the Minister for Local Government again investigate the ongoing capacity of the Shire of Kellerberrin to make local laws and provide additional assistance to the shire regarding the procedure for making those local laws. I commend the report to the house.