

CITY OF JOONDALUP CATS LOCAL LAW 2008 — DISALLOWANCE

Motion

Resumed from an earlier stage of the sitting.

HON NORMAN MOORE (Mining and Pastoral — Leader of the House) [5.35 pm]: The government supports the Joint Standing Committee on Delegated Legislation's recommendation to disallow this local law for the City of Joondalup. However, the government's support for the disallowance is not related to a view about cats and whether there should be legislation. The government's view relates simply to the issues raised by the committee on the way in which the council has gone about seeking to implement these local laws, and legal issues surrounding the question of power and the council's capacity to go down its chosen path. The committee makes two recommendations. The first is that the local laws be disallowed. The second reads —

The Committee recommends that the Minister for Local Government give consideration to introducing a Cat Bill into the Parliament dealing with such issues as the sterilisation of cats in certain circumstances.

That matter will be referred to the Minister for Local Government, who will respond to the committee's recommendation in due course. The disallowance issue is not one of whether we agree or disagree with cat sterilisation; it has to do with the activities of the council in meeting with the requirements of the Joint Standing Committee on Delegated Legislation. I refer to the committee's conclusions outlined on page 9 of its report. The first conclusion relates to committee term of reference 3.6(a). At paragraph 7.1, the report states —

The Committee concluded that clause 7 was an attempt to widen the scope of the general function found in section 3.1 of the Act. The Committee was of the view that clause 7 goes beyond the accepted notions of local government in that it imposes a law on a highly controversial and emotive subject which has significant implications beyond its district.

Hon Robin Chapple has given us some examples of that. At paragraph 7.2, the report states —

The Committee has also formed the view that in providing the wide powers found in section 3.1 of the Act, Parliament did not contemplate that they would be used to impose compulsory sterilisation of animals ... The Committee also considered that Parliament would not have contemplated that section 3.1 of the Act would authorise the making of local laws about matters of statewide concern that are more appropriately addressed by the State.

Paragraph 7.4, on page 10 of the reports, states in relation to committee term of reference 3.6(f) —

The Committee considers that the subject matter of clause 7 is one of significant new policy and as such would be more appropriately dealt with in an Act.

That is a fair and reasonable conclusion to reach on this occasion. Committee term of reference 3.6(a) is dealt with on page 11, at paragraph 8.8, which states —

The Committee concludes that clause 18 offends its *Term of Reference 3.6(a)* on the basis that the Act does not authorise or contemplate the making of a local law containing provisions which are internally inconsistent.

The government acknowledges that finding. Paragraph 9.19, on page 15, states —

The Committee has concluded that the aspects of the offence established under clause 20(1)(b) offend its *Term of Reference 3.6(a)* in that they give rise to unreasonable outcomes that are not contemplated by the Act ...

A number of examples are then given explaining how that occurs, but I do not propose to read them out. On term of reference 3.6 (3), paragraph 9.20 states —

The Committee also concluded that the failure to require a substantiated complaint and to give notice of an initial complaint in clause 20(1)(b) offended its *Term of Reference 3.6(b)*. The clause potentially had an adverse effect on the legitimate expectations of an individual beyond that contemplated by the Act. An individual would have a legitimate expectation that they would not be penalised on the basis of unsubstantiated evidence and that they would be given notice of the complaint in these circumstances.

The committee has reached the conclusion that the City of Joondalup Cats Local Law 2008 should be disallowed. As I said, the government supports the committee's findings and will be voting for the disallowance. I repeat that this is not a judgement by the government about the issues surrounding cats and cat legislation; it is simply a response to the technical issues raised by the committee, with which the government agrees. However, recommendation 2 will go to the Minister for Local Government, and if the government determines to take

action on legislation relating to cats, if it gets that brave—it is about the same as legislating on dogs, which also requires a brave approach—

Hon Ken Travers: Not to mention a very long debate in the house, from my memory.

Hon NORMAN MOORE: That is quite right. Certain acts take a long time. One is the Dog Act 1976, another is the Dividing Fences Act 1961, and, I suspect, if we had one, a cat act would be yet another. It is yet to be seen whether the Parliament is of the mind or the government is of the view that we should have a cat act. The issues raised in this report are pertinent to the minister's consideration of the matter. I thank the Joint Standing Committee on Delegated Legislation for its significant hard work on this matter. The government will support the disallowance motion.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [5.40 pm]: The opposition will also support the Joint Standing Committee on Delegated Legislation's position on this disallowance motion. Like the government, we will not engage in the quite divisive and emotional debate about whether cats should be sterilised, microchipped or registered. The committee has applied an interesting test to try to work out whether the decision made by the City of Joondalup for the application of this local law goes beyond the scope of what its local laws were intended to do for the good of the people over which it has jurisdiction. The committee has been dealing with this matter since May. I note from the correspondence attached to the back of the report that there has been quite extensive interaction between the committee, the Joondalup city council and a law firm seeking advice about the activities of other councils. The committee has tried to work through this matter very carefully. The council tried to compromise on some aspects of the local laws, but obviously not to the satisfaction of the committee. I understand the concerns the committee has raised about the local laws pertaining to the management of cats in that area, and about imposing costs and conditions upon the local ratepayers. It is difficult as one aspect involves cats transgressing various boundaries. The City of Joondalup said that it would run an education program for ratepayers in the Stirling area to try to alleviate their concerns about their cats being picked up and impounded.

All these issues have become subservient to the real issue about the framework within which the City of Joondalup conducts itself when drafting such laws. This has been a very important inquiry in that regard, and the committee has certainly put in a lot of effort by going into this degree of detail. The opposition takes the view that although the City of Joondalup has tried to come to the party to address some of these issues, this is a matter that should be looked at on a statewide basis. I note that a number of other councils, such as Armadale, Albany and a couple of others—about 10 or 11—have, over time, tried to enact a range of different local cat laws. I also know that Hon Giz Watson, unfortunately for her, tried unsuccessfully to pursue this matter at a state level. The opposition has not formed a view one way or another about a cat law and whether cats should be sterilised. I understand that the government has asked one of its backbenchers in the other place to look at this type of legislation and perhaps bring it forward. When that eventually happens, we can move forward and deal with the issue, and form a view about whether it is good or appropriate law.

Putting that emotive issue to one side, the committee has made an appropriate decision to deal with these technicalities, and the opposition fully supports the path it has taken to address issues associated with the scope of the types of law this city council has introduced. When dealing with these types of local laws, we have to ask whether local councils have reached beyond their jurisdiction and it is, perhaps, something state Parliament should be looking at. I imagine that a range of other local law examples arise from time to time. Like the government, the opposition picks up on the concerns raised by the committee in this very good report, and I congratulate committee members on the level of detail and scrutiny they have applied in their inquiry.

The opposition supports the committee's findings. We support the first recommendation that the City of Joondalup Cats Local Law 2008 be disallowed. We do not make any comment on the committee's second recommendation; I dare say that in due course, when this report is debated, we will have the capacity to make comment on that aspect of the report.

HON LYNN MacLAREN (South Metropolitan) [5.46 pm]: I also speak in support of the motion to disallow the City of Joondalup Cats Local Law 2008. Although I understand and support the committee's recommendation, I believe that Parliament should acknowledge the need for laws to manage cats and the extraordinary lengths to which the City of Joondalup has gone, in this case, in its efforts to respond to community concerns in the absence of state laws that could conceivably deal with these issues. The Greens (WA) have always supported the establishment and maintenance by local government authorities of universal registration of companion animals, as do many animal welfare organisations that believe that companion animals should be identified to ensure their safe return if they are lost or stolen, and to encourage owners to take responsibility for animals in their care. Identification should be permanent and painless.

The Greens (WA) would also like to see the introduction of compulsory sterilisation for all cats and dogs, with exceptions for licensed breeders. I note that the RSPCA particularly urges pet owners to desex their cats as early as eight weeks of age. The listed benefits include the fact that the animals live longer; have healthier lives; are more affectionate; make better companions; and are less likely to suffer from antisocial behaviour. Sterilisation also eliminates the heat cycles in female cats and their endless efforts to get outside to find a mate, and it means that male cats are less likely to stray and mark their territory. Cats are less inclined to wander, run away or get into fights, thereby reducing abscesses, accidental injuries and death from cars. They are also less susceptible to feline AIDS. Desexing reduces or eliminates the incidence of some health problems that can be difficult to treat, such as ovarian, breast and uterine cancer in females, and prostate and testicular cancer in males.

As many people have mentioned, in 2003 Hon Giz Watson introduced the Cat Bill. At that time I worked as a research officer for Giz, and it was a very interesting experience for us. The bill languished on the table, undebated, for two years, before it finally lapsed in January 2005. That was an excellent opportunity that was not taken up by Parliament at that time. I am heartened by the news that a member of the government in the other place is interested in bringing forward some state legislation on this matter. We look forward to seeing that in the near future.

To emphasise the need for this legislation, it is worth noting some current statistics. Some 13.1 million Australians are associated with pets; the incidence of pet ownership in Australia is one of the highest in the world. An estimated 63 per cent of Australia's 6.6 million households own some kind of pet. In fact, 53 per cent of them have a cat or a dog. The cat population has continued to decline, year-on-year, since 2002. Cat numbers have declined from a high of 3.2 million in 1988 to the current level of around 2.2 million.

Just briefly, in Western Australia there are approximately 217 000 cats; that is, 11 cats for every 100 people. Hon Giz Watson's Cat Bill 2003 sought to regulate the ownership and keeping of cats by introducing statewide legislation that was very similar to the legislation governing dogs. In fact, many other states have already introduced such legislation, which is often known as companion animal legislation. Currently the high number of unwanted cats results in many animals being destroyed, dumped or inadequately cared for. Western Australians, including the Royal Society for the Prevention of Cruelty to Animals, and, most notably in this debate, the good citizens of Joondalup, are rightfully concerned about the welfare of companion cats and the impact of abandoned, stray or feral cats on wildlife. It is my view, especially in light of the inability to implement local laws such as the one before us from the City of Joondalup, that state legislation is required to promote and provide for the welfare of cats, to reduce the negative effects on wildlife caused by domestic and feral cats and to promote responsible cat ownership.

Community concern has already triggered several cat-control initiatives in Western Australia. Many concerns raised about cats relate to their tendency to roam unchecked in large areas and in native ecosystems. Cats have been restricted from some residential subdivisions adjacent to national parks. A number of local governments have tried to create by-laws, and many have succeeded. However, there is a strong argument for statewide legislation similar to the statewide approach to dog management. Western Australia is lagging behind other states in its management system for cats. Since 1996 cat and dog owners in Victoria have been required to register their cat or dog with their local council. Since the legislation was implemented—the first for cats—the number of cats that passed into animal shelters dropped by 20 per cent in the first year, and more than 65 per cent of cats had been registered over that very same period.

To conclude my remarks, I refer to the Petcare Information and Advisory Service, which reports that pets are a normal part of childhood for more than 83 per cent of Australians, and that of the Australians who do not currently own a pet, 53 per cent would like to do so in the near future. It would therefore be prudent of our state government to establish legislation for the welfare and management of cats, although I recognise that in this instance the City of Joondalup Cats Local Law 2008 must be disallowed.

HON ROBIN CHAPPLE (Mining and Pastoral) [5.52 pm] — in reply: I thank members for their contribution to this debate and I thank government members for supporting the Joint Standing Committee on Delegated Legislation in its request to disallow this City of Joondalup Cats Local Law 2008. I also thank opposition members and members of my own party for their input. I thank the Leader of the Government in this place for his acknowledgement that he will refer the matter to the Minister for Local Government. Without wishing to belittle or lighten the issue too much, I hope that such legislation, when introduced into this place, will not be catastrophic and indeed that the government could claw back its responsibility in relation to this matter. I thank members.

Question put and passed.