



JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Our Ref: 38113:14

Mr Trevor Vaughan
Mayor, Town of Victoria Park
Locked Bag 437
Victoria Park, WA, 6979

20 June 2013

By email: ALantzke@vicpark.wa.gov.au

Dear Mayor

Town of Victoria Park Parking and Parking Facilities Amendment Local Law 2013

The Joint Standing Committee on Delegated Legislation considered the *Town of Victoria Park Parking and Parking Facilities Amendment Local Law 2013 (Local Law)* at its meeting on 19 June 2013. The Committee resolved to write to you and express its preliminary views in relation to the Local Law.

Reference to out-dated legislation

The Committee notes the following clause which contains a reference to out-dated legislation.

- The definition of “*builder*” in new clause 8.3(1) states:
“builder” has the same meaning as that expression is given in the Building Regulations 1989.

The Building Regulations 1989 were repealed by section 157 of the *Building Act 2011* and replaced with the Building Regulations 2012. There is no definition of “*builder*” in either the *Building Act 2011* or the Building Regulations 2012.

It is important that clarity is provided on whom can be considered a builder for the purposes of the Local Law as:

- the Local Law places a number of obligations on an “*eligible person*” (the definition of which includes a builder) when seeking to establish a work zone adjacent to a construction site; and
- there is a \$60 modified penalty for failure to comply with clause 8.3.

The Committee seeks the following undertakings from Council of the Town of Victoria Park:

- Amend the definition of “*builder*” so that it no longer refers to out-dated legislation (which can be achieved by inserting a stand-alone definition);
- make any consequential amendments arising from this undertaking;
- complete the undertaking within six months of the date of the Council’s letter to give the undertaking;

- provide a copy of the minutes of the meeting at which the Council resolved to provide the undertaking; and
- in the interim, where the Local Law is made publically available by the Town of Victoria Park, whether in electronic or hard copy form, it be accompanied by a copy of the undertakings.

At its meeting on 19 June 2013 the Committee resolved to move a Notice of Motion in the Legislative Council to disallow the *Town of Victoria Park Parking and Parking Facilities Amendment Local Law 2013* should the Committee recommend disallowance of the local law to the Parliament. The giving of notice in Parliament, however, should not be taken to indicate that the Committee has resolved to recommend disallowance and allows the Town of Victoria Park time to provide the undertakings as requested above.

Should the Committee recommend disallowance, the Local Law will cease to have effect from the date of disallowance and cannot be relied upon by the Town.

The Committee operates under strict timeframes under for disallowance in Parliament. It notes that the next meeting of the Council of the Shire is 9 July 2013. However, if it is possible to give the undertakings by **midday on Monday 24 June 2013**, the Committee will be able to resolve at its next meeting to not proceed further with this matter. Otherwise, this can be undertaken at a subsequent meeting of the Committee.

If you have any questions, please contact Alex Hickman, Advisory Officer (Legal), on 9420 7633 or via email at delleg@parliament.wa.gov.au.

Yours sincerely



Mr Peter Abetz MLA
Chairman