



Hon David Templeman MLA
Minister for Local Government; Heritage; Culture and the Arts

Our Ref: 66-02743

Ms Emily Hamilton MLA
Chair
Joint Standing Committee on Delegated Legislation
Legislative Council Committee Office
GPO Box A11
PERTH WA 6837

ATTENTION: Ms Suzanne Veletta, Clerk Assistant (Procedures)

Dear Ms Hamilton

I write with regard to the Report 1 of the Joint Standing Committee on Delegated Legislation which was tabled in the Legislative Council on 14 September 2017.

The Committee's report raises significant questions about the appropriateness of 'determination devices' in local laws, whether they should be reviewable and, if so, what level of review is appropriate.

Under my instruction, the Department of Local Government, Sport and Cultural Industries (the Department) has investigated the options which could be used to resolve the Committee's concerns.

I have concluded that all of the available legislative options have significant disadvantages and administrative costs. They are also unlikely to be well received by the local government sector.

I am mindful of the fact that local governments do not have an inherent right to make local laws or prosecute people who break them. This power is provided by Parliament and is subject to Parliament's terms.

Part 9 of the *Local Government Act 1995* provides that any decision made under a local law can be made reviewable, if the local law states that the decision is one to which a right of appeal exists.

Therefore, if the Parliament believes that a certain form of 'determination' in a local law should be reviewable, the Parliament can choose to disallow a local law if it fails to provide a sufficient means of review.

Since the Committee scrutinises all local laws tabled in Parliament, the Committee is in the best position to determine what kinds of determinations should be reviewable and advise Parliament accordingly.


This advice could then be provided to local governments to ensure that their local laws are drafted appropriately.

Naturally, it is for the Committee to decide if it will provide such advice or not. Nevertheless, I am confident that existing legislation and Parliamentary mechanisms are sufficient to resolve this issue.

I am aware that the Committee is a long-standing member of the Local Laws Working Group. The next meeting of the working group would be an ideal opportunity to discuss this issue further.

The Department is in the process of organising the next meeting of the Local Laws Working Group and I have requested that this issue be included on the agenda. I trust that this is satisfactory to the Committee and will ultimately lead to a resolution which satisfies the Committee's concerns.

Yours sincerely



HON DAVID TEMPLEMAN MLA
MINISTER FOR LOCAL GOVERNMENT; HERITAGE;
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