



**CHIEF EXECUTIVE OFFICER ATTACHMENTS  
ORDINARY MEETING OF COUNCIL  
WEDNESDAY 20 SEPTEMBER 2023**

REPORT NUMBER	REPORT TITLE AND ATTACHMENT DESCRIPTION	PAGE NUMBER(S)
CEO01 - 09/23	<b>Work Health and Safety Statistics Report - August 2023</b>  <b>Attachments</b> 1. WHS Statistics Report – July	1
CEO02 - 09/23	<b>Changes to Shire of Chittering Dogs Local Law 2023</b>  <b>Attachments</b> 1. Correspondence from Legislative Council re changes 2. Amended Dogs Local Law 2023	2 – 7
CEO03 - 09/23	<b>Changes to Shire of Chittering Local Government Property and Public Places Local Law 2023</b>  <b>Attachments</b> 1. Correspondence from Legislative Council re changes 2. Amended Local Government Property and Public Places Local Law 2023	8 – 13
CEO04 - 09/23	<b>Changes to Shire of Chittering Standing Orders Local Law 2023</b>  <b>Attachments</b> 1. Correspondence from Legislative Council re changes 2. Amended Standing Orders Local Law 2023	14 – 22
CEO05 - 09/23	<b>Changes to Shire of Chittering Keeping Control of Cats Local Law 2023</b>  <b>Attachments</b> 1. Correspondence from Legislative Council re changes 2. Amended Keeping Control of Cats Local Law 2023	23 – 29

# COUNCIL KPI'S - MONTHLY REPORT - WORK, HEALTH AND SAFETY

AUGUST 2023

Reporting Month	Drug and Alcohol tests performed	Positive Drug test and BAC Exceedances	Workers Compensation Claims	Current Workers Compensation Claims	Near Misses and Incident	Medically Treated Injuries	Restricted Work Injuries	Lost Time Injuries
AUGUST					4			

## NEAR MISS, INCIDENT AND DAMAGE REPORT

Incident	Date	Type of Injury	Department and Location	Response
150	09/08/2023	Damage to lock and gate and Landfill	Technical Services, Muchea	Locks were replaced
151	15/08/2023	Injury to knee and wrist	Corporate Services, Bindoon Library	Matt removed and replaced
152	13/08/2023	Loader Bogged	Technical Services, Muchea Landfill	New tyres fitted
153	18/08/2023	Static shock from copier	Development Services, Bindoon	Circuit breakers replaced

## TRAINING AND DEVELOPMENT

Date	Training	Training Organisation
16/08/2023	Irrigation and Reticulation Conference (3 x Parks and Gardens)	Irrigation Australia Pty Ltd
22/08/2023	Basic Traffic Management (2 x Rangers and Bushfire Mitigation)	Kelyn Training Services
31/08/2023	WHS Refresher training for Landfill (4 staff and 3 casuals)	Jon Barrett – WHS Officer

## JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION



Your ref: 023144085  
Our ref: A1031781 and 4147/12

9 August 2023

Cr Aaron King  
President  
Shire of Chittering  
PO Box 70  
Bindoon WA 6502  
[crking@chittering.wa.gov.au](mailto:crking@chittering.wa.gov.au)

Dear President

**Shire of Chittering Dogs Local Law 2023**

Thank you for the Explanatory Memorandum and supporting material for the above Local Law submitted by Chief Executive Officer Melinda Prinsloo on 12 June 2023.

The Committee considered the Local Law at its meeting today and resolved to write to you about the following issues.

**Typographical errors**

*Clauses 3.3(1)(c) and (d)*

These clauses state:

**3.3 Applications to keep additional dog or dogs**

(1) Subject to clause 3.5, the local government may consider an application to keep an additional dog or dogs where—

(c) sufficient reason has been provided, including—

- (i) to replace an elderly or sick dog not expected to live;
- (ii) a family emergency resulting in the dog being inherited;
- (iii) merging of two households;
- (iv) where the applicants have had approval to keep an additional dog or dogs in another local authority; or
- (v) on premises zoned as rural or rural residential under a local planning scheme, the dog or dogs are required for stock

management or to be on the premises temporarily for the purposes of training for stock management.

(d) in the case of a tenanted property provide written consent by either the landowner or their appointed property owner

The full stop at the end of clause 3.3(1)(c)(v) after the words 'stock management' should be a semi-colon and the full stop at the end of clause 3.3(1)(d) is missing. These errors should be corrected.

#### Clause 4.3

Clause 4.3 deals with exemption from notice requirements. It states:

#### **4.3 Exemption from notice requirements**

The requirements of clauses 4.2 and 4.4(a) and Schedule 1 clause 5(c) do not apply in respect of the application for a licence where under a local planning scheme an application for a licence is made in respect of premises on which an approved kennel establishment is either a—

(a) permitted use; or

(b) use which the local government may approve subject to compliance with specified notice requirements.

The Local Law does not contain a clause 4.4(a) and there is no clause 5(c) in Schedule 1. The Local Law should not refer to clauses that do not exist. These references should be deleted.

#### **Undertakings**

The Committee requests the following undertakings:

1. Within 6 months:
  - Amend clause 3.3(1)(c)(v) to replace the full stop after the words 'stock management' with a semi-colon.
  - Amend clause 3.3(1)(d) to insert a full stop at the end of the clause.
  - Amend clause 4.3 to delete the reference to clause 4.4(a) and Schedule 1 clause 5(c).
2. All consequential amendments arising from undertaking 1 will be made.
3. Clauses 3.3(1)(c)(v), 3.3(1)(d) and 4.3 will not be enforced in a manner contrary to undertaking 1.
4. Where the Local Law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertakings.

The undertakings should be given in the form of a letter signed by you as President, not the Chief Executive Officer or other officer of the Shire of Chittering. This is because, pursuant to section 2.8(1)(d) of the *Local Government Act 1995*, the 'Mayor or President speaks on behalf of the local government' to the Parliament of Western Australia.

Noting that your Council is due to meet on 20 September 2023, the Committee requests the undertakings be provided by **27 September 2023**.

To assist you I attach a suggested form of Council resolution to provide the undertakings.

Please also note that the fulfilment of the undertakings must be by making a local law that complies with all mandatory procedural steps contained in section 3.12 of the *Local Government Act 1995*.

Please provide your response by **27 September 2023**. If you have any queries in relation to this matter, please contact Ms Felicity Mackie, Advisory Officer (Legal) on 9222 7406 or at [delleg@parliament.wa.gov.au](mailto:delleg@parliament.wa.gov.au).

Yours sincerely



**Mr Geoff Baker MLA**  
Chair

cc: Melinda Prinsloo, Chief Executive Officer, [ceo@chittering.wa.gov.au](mailto:ceo@chittering.wa.gov.au)

*This correspondence including any attachments is confidential and privileged. Your local government may only discuss the content of this letter and any attachments with the Western Australian Local Government Association, the Department of Local Government and the Shire's legal advisors to the extent necessary to obtain information the Committee seeks. Each person to whom you distribute this material must be made aware of its confidential and privileged status.*

**Suggested form of Council resolution to provide the undertakings**

The Council of the Shire of Chittering resolves to undertake to the Joint Standing Committee on Delegated Legislation that:

1. Within 6 months:
  - Amend clause 3.3(1)(c)(v) to replace the full stop after the words 'stock management' with a semi-colon.
  - Amend clause 3.3(1)(d) to insert a full stop at the end of the clause.
  - Amend clause 4.3 to delete the reference to clause 4.4(a) and Schedule 1 clause 5(c).
2. Not enforce the Local Law to the contrary before it is amended in accordance with undertaking 1.
3. Ensure all consequential amendments arising from the undertakings will be made.
4. Where the Local Law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertaking.

**Draft 2****LOCAL GOVERNMENT ACT 1995****DOG ACT 1976****SHIRE OF CHITTERING****DOGS AMENDMENT LOCAL LAW 2023**

Under the powers conferred by the *Dog Act 1976*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chittering resolved on **????** to make the following local law.

**PART 1—PRELIMINARY****1. Citation**

This local law may be cited as the *Shire of Chittering Dogs Amendment Local Law 2023*.

**2. Commencement**

The local law comes into operation on the fourteenth after the day it is published in the Government Gazette.

**3. Principal local law**

This local law amends the *Shire of Chittering Dogs Local Law 2023* as published in the *Government Gazette* on 6 June 2023.

**PART 2—AMENDMENTS****4. Clause 3.3(1)(c)(v) Amended**

In clause 3.3(1)(c)(v) delete the full stop after the words 'stock management' and replace it with a semi-colon.

**5. Clause 3.3(1)(d) Amended**

In clause 3.3(1)(d) insert a full stop at the end of the clause.

**6. Clause 4.3 Amended**

In clause 4.3 delete the references to clause '4.4(a)' and 'Schedule 1 clause 5(c)' and replace them with '4.4' and 'Schedule 1 clause (j)(c)' respectively.

Dated ????

The Common Seal of the Shire of Chittering was affixed by authority of a resolution of Council in the presence of -

Aaron King  
Shire President

Melinda Prinsloo  
Chief Executive Officer



## JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION



Your ref: 023144086  
Our ref: A1034100 and 4147/14

9 August 2023

Cr Aaron King  
President  
Shire of Chittering  
PO Box 70  
Bindoon WA 6502  
[crking@chittering.wa.gov.au](mailto:crking@chittering.wa.gov.au)

Dear President

**Shire of Chittering Local Government Property and Public Places Local Law 2023**

Thank you for the Explanatory Memorandum and supporting material for the above Local Law submitted by Chief Executive Officer Melinda Prinsloo on 12 June 2023.

The Committee considered the Local Law at its meeting today and resolved to write to you about the following issues.

**Typographical errors**

The Local Law contains several typographical errors.

*Clause 3.1(1)*

Clause 3.1(1) contains an incorrect clause reference. It states:

**3.1 Activities needing a permit—general**

(1) Subject to this local law, a person must not without a permit granted in accordance with Part 14—

The reference should be to Part 12 which deals with Permits.

*Clause 7.10*

Clause 7.10 contains an incorrect clause reference. It states:

**7.10 Transitional**

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 7.10 if the sign is not inconsistent with any provisions of this local law.

The reference should be to clause 7.9 which deals with signs.

*Clauses 8.2(3)(a) and (d)*

Clauses 8.2(3)(a) and 8.2(3)(d) contain incorrect clause references. They state:

### **8.2 Public interest signage**

(3) A permit holder must not erect or display on or in local government property or a public place—

(a) subject to clause 8.3(3)(b), more than 6 public interest signs for one event at any one time within the district;

...

(d) subject to clause 8.3(3)(e), a public interest sign for a period longer than 10 days in any 6 month period within the district;

Clauses 8.3(3)(b) and 8.3(3)(e) do not exist. The Local Law should be amended to refer to the correct clauses.

### *Clause 8.3(1)*

This clause contains an incorrect clause reference. It states:

### **8.3 Other Portable Signs**

(1) Other portable signs are subject to the general prohibitions outlined in clause 8.2.

The correct reference is to clause 8.1 which contains general prohibitions.

### *Clause 15.6(1)*

Clause 15.6(1) states:

### **15.6 Requirement to give name and address on demand**

(1) An authorised person may—

(a) upon finding a person committing or having committed; or

(b) on reasonable grounds suspecting a person of having committed, an offence against this local law, demand from the person the person's name, place of residence and date of birth.

The underlined words should be on a separate line as they apply to both subclauses (a) and (b). The comma after the word 'committed' in subclause (b) should be deleted.

### **Undertakings**

The Committee requests the following undertakings:

1. Within 6 months:
  - amend clause 3.1(1) to refer to Part 12 rather than Part 14
  - amend clause 7.10 to refer to clause 7.9
  - amend clauses 8.2(3)(a) and (d) and 8.3(1) to correct the clause references
  - correct the formatting error in clause 15.6(1).
2. Not enforce the Local Law to the contrary before it is amended in accordance with undertaking 1.
3. Ensure all consequential amendments arising from the undertakings will be made.

4. Where the Local Law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertaking.

The undertakings should be given in the form of a letter signed by you as President, not the Chief Executive Officer or other officer of the Shire of Chittering. This is because, pursuant to section 2.8(1)(d) of the *Local Government Act 1995*, the 'Mayor or President speaks on behalf of the local government' to the Parliament of Western Australia.

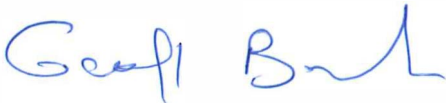
Noting that your Council is due to meet on 20 September 2023, the Committee requests the undertakings be provided by **27 September 2023**.

To assist you I attach a suggested form of Council resolution to provide the undertakings.

Please also note that the fulfilment of the undertakings must be by making a local law that complies with all mandatory procedural steps contained in section 3.12 of the *Local Government Act 1995*.

Please provide your response by **27 September 2023**. If you have any queries in relation to this matter, please contact Ms Felicity Mackie, Advisory Officer (Legal) on 9222 7406 or at [delleg@parliament.wa.gov.au](mailto:delleg@parliament.wa.gov.au).

Yours sincerely



**Mr Geoff Baker MLA**

Chair

cc: Melinda Prinsloo, Chief Executive Officer, [ceo@chittering.wa.gov.au](mailto:ceo@chittering.wa.gov.au)

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**Suggested form of Council resolution to provide the undertakings**

The Council of the Shire of Chittering resolves to undertake to the Joint Standing Committee on Delegated Legislation that:

1. Within 6 months correct the typographical errors in clauses 3.1(1), 7.10, 8.2(3)(a) and (d), 8.3(1) and 15.6(1).
2. Not enforce the Local Law to the contrary before it is amended in accordance with undertaking 1.
3. Ensure all consequential amendments arising from the undertakings will be made.
4. Where the Local Law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertaking.

**Draft 2****LOCAL GOVERNMENT ACT 1995**

## SHIRE OF CHITTERING

**LOCAL GOVERNMENT PROPERTY AND PUBLIC PLACES AMENDMENT LOCAL LAW 2023**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chittering resolved on [???) to make the following local law.

## PART 1—PRELIMINARY

**1. Citation**

This local law may be cited as the *Shire of Chittering Local Government Property and Public Places Amendment Local Law 2023*.

**2. Commencement**

The local law comes into operation on the fourteenth after the day it is published in the Government Gazette.

**3. Principal local law**

This local law amends the *Shire of Chittering Local Government Property and Public Places Local Law 2023* as published in the *Government Gazette* on 6 June 2023.

## PART 2—AMENDMENTS

**4. Clause 3.1(1) Amended**

In clause 3.1(1) delete '14' and replace it with '12'.

**5. Clause 8.2(3)(a) Amended**

In clause 8.2(3)(a) delete '8.3(3)(b)' and replace it with '8.3(2)(b)'.

**6. Clause 8.2(3)(d) Amended**

In clause 8.2(3)(d) delete '8.3(3)(e)' and replace it with '8.3(2)(e)'.

**7. Clause 8.3(1) Amended**

In clause 8.3(1) delete '8.2' and replace it with '8.1'.

**8. Clause 15.6(1) Amended**

In clause 15.6(1)(b) move all the words 'an offence against this local law, demand from the person the person's name, place of residence and date of birth' and place them on a separate line.

Dated ????

The Common Seal of the Shire of Mount Magnet was affixed by authority of a resolution of Council in the presence of -

Aaron King  
Shire President

Melinda Prinsloo  
Chief Executive Officer

## JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION



Your ref: 023144087  
Our ref: A1034873 and 4147/15

9 August 2023

Cr Aaron King  
President  
Shire of Chittering  
PO Box 70  
Bindoon WA 6502  
[crking@chittering.wa.gov.au](mailto:crking@chittering.wa.gov.au)

Dear President

**Shire of Chittering Standing Orders Local Law 2023**

Thank you for the Explanatory Memorandum and supporting material for the above Local Law submitted by Chief Executive Officer Melinda Prinsloo on 12 June 2023.

The Committee considered the Local Law at its meeting today and resolved to write to you about the following issues.

**Typographical errors***Clause 1.2*

This clause is missing a full stop which should be inserted.

*Clause 1.6*

Clause 1.6 defines committee as:

***committee*** means a committee of the council (established under section 5.8 of the Act);

The word 'council' should start with a capital 'C' as it is a defined term.

*Clause 3.4*

Clause 3.4 states:

**3.4 Calling committee meetings**

*A meeting of a committee is to be held—*

*(a) If called for in a verbal or written request to the CEO by the President or the presiding member of the committee, advising the date and purpose of the proposed meeting;*

*(b) If called for by at least one-third of the members of the committee in a notice to the CEO, setting out the date and purpose of the proposed meeting;  
or*

*(c) In accordance with a decision of the Council or the committee.*

The first words of each subclause (that is, 'If' and 'In') should start with a lower case letter.

#### Clause 4.13

Clause 4.13 contains formatting errors. It states:

#### **4.13 Names to be recorded**

*At any meeting—*

*(a) at which there is not a quorum present; or*

*which is adjourned for want of a quorum,*

*(b) the names of the members then present are to be recorded in the minutes.*

The clause should read:

#### *4.13 Names to be recorded*

*At any meeting—*

*(a) at which there is not a quorum present; or*

*(b) which is adjourned for want of a quorum,*

*the names of the members then present are to be recorded in the minutes.*

#### Clause 5.5

Clause 5.5 reads:

#### **5.5 Motions without notice**

*A motion moved without notice, must be worded so as to refer to a particular matter for investigation and report to a committee for consideration of the Council at a later date, or directly to Council.*

The comma after the word 'notice' should be deleted.

#### Clause 5.6(1)

Clause 5.6(1) states:

#### **5.6 Adoption by exception resolution**

*(1) In this clause 'adoption by exception resolution' means a resolution of the Council that has the effect of adopting, recommendations from any committee*



*or, for a number of specifically identified reports, the employee recommendation as the Council resolution.*

The comma after the word 'adopting' should be deleted.

Clause 6.9(4)(c)

This clause states:

**6.9 Deputations**

*(4) Unless the Council or committee resolves otherwise, a deputation invited to attend a Council or committee meeting—*

*(a) is not to exceed 5 persons, only 2 of whom may address the Council or a committee, although others may respond to specific questions from members;*

*(b) is not to address the Council or a committee for a period exceeding 10 minutes without the agreement of the Council; and*

*(c) an extension of time and the increase in number of speaking members of the deputation may be allowed with the leave of the presiding member.*

Subclause (c) should be in a separate subclause as it contains an exception to subclauses (a) and (b).

Clause 6.15(2)

This clause states:

**6.15 Confidentiality of information withheld**

*(2) A member or an employee who has—*

*(a) confidential information under subclause (1); or*

*(b) information that is provided or disclosed during a meeting or part of a meeting that is closed to the public,*

*is not to disclose any of that information to any person other than member employee to the extent necessary for the purpose of carrying out his or her functions.*

The last part of that clause should read:

*is not to disclose any of that information to any person other than a member or employee to the extent necessary for the purpose of carrying out his or her functions*

Clause 7.2(3)

Clause 7.2(3) states:

**7.2 Without due notice**

*(3) Where possible the employee must endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the employee may ask that—*

*(a) the question be placed on notice for the next meeting of Council; or committee and*

*(b) the answer to the question be given to the member who asked it within 14 days.*

It should read:

*(a) the question be placed on notice for the next meeting of Council or committee; and*

*(b) the answer to the question be given to the member who asked it within 14 days.*

Clause 10.3

Clause 10.3 states:

**10.3 Motions to be stated in writing**

*Any member who wishes to move a substantive motion or an amendment to a substantive motion—*

*(a) is to state the substance of the motion before speaking to it; and*

*(b) if required by the presiding member, is to put the motion or amendment in writing.*

*(c) for complex amendments they must be in writing.*

Subclause (c) deals with a slightly different matter to subclauses (a) and (b) and should be in a new discreet subclause.

Clause 11.5.5(3)(b)

Clause 11.5.5(3)(b) states:

*(3) Where debate on a motion is interrupted by laying a motion on the table under subclause (1)—*

...

*(b) the provisions of clause 7.11 apply when the debate is resumed.*

The Local Law does not contain a clause 7.11. The incorrect reference should be corrected.

### Undertakings

The Committee requests the following undertakings:

1. Within 6 months:
  - Amend clauses 1.2, 1.6, 3.4, 4.13, 5.5, 5.6(1), 6.9(4)(c), 6.15(2), 7.2(3), 10.3 and 11.5.5(3)(b).
2. All consequential amendments arising from undertaking 1 will be made.
3. Clauses 1.2, 1.6, 3.4, 4.13, 5.5, 5.6(1), 6.9(4)(c), 6.15(2), 7.2(3), 10.3 and 11.5.5(3)(b) will not be enforced in a manner contrary to undertaking 1.
4. Where the Local Law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertakings.

The undertakings should be given in the form of a letter signed by you as President, not the Chief Executive Officer or other officer of the Shire of Chittering. This is because, pursuant to section 2.8(1)(d) of the *Local Government Act 1995*, the 'Mayor or President speaks on behalf of the local government' to the Parliament of Western Australia.

Noting that your Council is due to meet on 20 September 2023, the Committee requests the undertakings be provided by **27 September 2023**.

To assist you I attach a suggested form of Council resolution to provide the undertakings.

Please also note that the fulfilment of the undertakings must be by making a local law that complies with all mandatory procedural steps contained in section 3.12 of the *Local Government Act 1995*.

Please provide your response by **27 September 2023**. If you have any queries in relation to this matter, please contact Ms Felicity Mackie, Advisory Officer (Legal) on 9222 7406 or at [delleq@parliament.wa.gov.au](mailto:delleq@parliament.wa.gov.au).

Yours sincerely



**Mr Geoff Baker MLA**  
Chair

cc: Melinda Prinsloo, Chief Executive Officer, [ceo@chittering.wa.gov.au](mailto:ceo@chittering.wa.gov.au)

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**Suggested form of Council resolution to provide the undertakings**

The Council of the Shire of Chittering resolves to undertake to the Joint Standing Committee on Delegated Legislation that:

1. Within 6 months:
  - Amend the typographical errors in clauses 1.2, 1.6, 3.4, 4.13, 5.5, 5.6(1), 6.9(4)(c), 6.15(2), 7.2(3), 10.3 and 11.5.5(3)(b).
2. Not enforce the Local Law to the contrary before it is amended in accordance with undertaking 1.
3. Ensure all consequential amendments arising from the undertakings will be made.
4. Where the Local Law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertaking.

**Draft 2****LOCAL GOVERNMENT ACT 1995**

## SHIRE OF CHITTERING

**STANDING ORDERS AMENDMENT LOCAL LAW 2023**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chittering resolved on **????** to make the following local law.

## PART 1—PRELIMINARY

**1. Citation**

This local law may be cited as the *Shire of Chittering Standing Orders Amendment Local Law 2023*.

**2. Commencement**

The local law comes into operation on the fourteenth after the day it is published in the Government Gazette.

**3. Principal local law**

This local law amends the *Shire of Chittering Standing Orders Local Law 2023* as published in the *Government Gazette* on 6 June 2023.

## PART 2—AMENDMENTS

**4. Clause 1.2 Amended**

Insert a full stop at the end of the clause.

**5. Clause 1.6 Amended**

In the definition of *committee* replace 'council' with 'Council'.

**6. Clause 3.4 Amended**

- (a) In clause 3.4(b) replace 'If' with 'if'.
- (b) In clause 3.4(c) replace 'In' with 'in'.

**7. Clause 4.13 Amended**

Delete the current wording in clause '4.13' and replace it with:

'At any meeting-  
(a) at which there is not a quorum present; or  
(b) which is adjourned for want of a quorum,  
the names of the members then present are to be recorded in the minutes.'

#### **8. Clause 5.5 Amended**

In clause 5.5 delete the comma after the word 'notice'.

#### **9. Clause 5.6(1) Amended**

In clause 5.6(1) delete the comma after the word 'adopting'.

#### **10. Clause 6.9 Amended**

- (a) Renumber subclause '6.9(4)(c)' to 6.9(5)'.  
(b) Renumber current subclauses '6.9(5)' and '6.9(6)' to '6.9(6)' and '6.9(7)' respectively.

#### **11. Clause 6.15(2) Amended**

In clause 6.15(2) delete the words 'is not to disclose any of that information to any person other than member employee to the extent necessary for the purpose of carrying out his or her functions' and replace the with 'is not to disclose any of that information to any person other than a member or employee to the extent necessary for the purpose of carrying out his or her functions.'

#### **12. Clause 7.2(3)(a) Amended**

In clause 7.2(3)(a) delete the semi-colon after the word 'Council'.

#### **13. Clause 10.3 Amended**

Delete current clause 10.3 and replace it with:

- '1. Any member who wishes to move a substantive motion or an amendment to a substantive motion-
  - (a) is to state the substance of the motion before speaking to it; and
  - (b) if required by the presiding member, is to put the motion or amendment in writing.
- 2. for complex amendments they must be in writing.'

#### **14. Clause 11.5.5(3)(b) Amended**

In clause 11.5.5(3)(b) delete '7.11' and replace it with '8.9'.

Dated ????

The Common Seal of the Shire of Chittering was affixed by authority of a resolution of Council in the presence of -

Aaron King  
Shire President

Melinda Prinsloo  
Chief Executive Officer

## JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION



Your ref: 023144084  
Our ref: A1033879 and 4147/13

9 August 2023

Cr Aaron King  
President  
Shire of Chittering  
PO Box 70  
Bindoon WA 6502  
[crking@chittering.wa.gov.au](mailto:crking@chittering.wa.gov.au)

Dear President

### **Shire of Chittering Keeping and Control of Cats Local Law 2023**

Thank you for the Explanatory Memorandum and supporting material for the above Local Law submitted by Chief Executive Officer Melinda Prinsloo on 12 June 2023.

The Committee considered the Local Law at its meeting today and resolved to write to you about the following issues.

#### **Clause 3.9(1)(b) - inconsistency with *Cat Act 2011* – Committee term of reference 10.6(a)**

When scrutinising local laws, the Committee inquires whether a local law is within power.

Clause 3.9(1)(b) deals with conditions applicable to permits. It states:

#### **3.9 Conditions**

*(1) Every permit is issued subject to the following conditions—*

*(b) Each cat shall be contained on the premises unless under the effective control of a person;*

Clause 3.4 states:

#### **3.4 Cats for which a permit is required**

*(1) Subject to subclause (2) a person is required to have a permit to—*

*(a) Keep more than 2 cats on any premises; or*

*(b) Use any premises as a cattery or cat management facility.*

*(2) A permit is not required under subclause (1) if the premises concerned are—*



(a) A refuge of the RSPCA or any other body prescribed in regulation 4 of the Cat Regulations 2012; or

(b) A cat management facility which has been approved by the local government;

(c) A veterinary surgery.

Effective control is defined in clause 1.4 as:

**effective control** in relation to a cat means any of the following methods–

(a) held by a person who is capable of controlling the cat;

(b) securely Tethered;

(c) secured In A Cage; Or

(d) any other means of preventing escape;

Section 79 of the *Cat Act 2011* (Act) empowers local governments to make local laws for the management of cats. Section 79(1) states:

*(1) A local government may make local laws prescribing all matters that are required or permitted to be prescribed by a local law, or are necessary or convenient to be so prescribed, for it to perform any of its functions under this Act.*

Section 79(3) contains a number of specific local law making powers, including:

- Section 79(3)(f), which provides that a local law may be made:

*specifying places where cats are prohibited absolutely*

- Section 79(3)(g), which provides that a local law may be made:

*requiring that in specified areas a portion of the premises on which a cat is kept must be enclosed in a manner capable of confining cats.*

By sections 79(3)(f) and 79(3)(g), the Parliament has delineated the scope of valid local laws concerning the prohibition of cats on public land and the confinement of cats. Any local laws which place conditions on cats being on public land beyond those provided for in the Act are inconsistent with the Act and not authorised.<sup>1</sup>

Clause 3.9(1)(b), in requiring cats to be 'under the effective control of a person' in public represents a further step in policy beyond that authorised by the Act and infringes Committee term of reference 10.6(a).

<sup>1</sup> Western Australia, Legislative Council, Joint Standing Committee on Delegated Legislation, report 78, [Annual Report 2014](#), 22 January 2015, pp 10-13; Western Australia, Legislative Council, Joint Standing Committee on Delegated Legislation, report 89, [Annual Report 2016](#), 17 November 2021, pp 19-20.

**Clause 2.2 and Schedule 3 – Cat prohibited areas**

Clause 2.2 deals with cat prohibited areas. Clause 2.2(1) provides that a cat shall not be in places specified in Schedule 3 at any time. Clause 2.2(2) provides that if a cat is in a cat prohibited area in contravention of clause 2.2(1), the owner of the cat commits an offence and an authorised person may seize and impound the cat.

The Local Law contains a Schedule 3 but it does not specify any cat prohibited areas.

There is no need for clause 2.2 or Schedule 3 and they should be deleted. The definition of 'cat prohibited area' in clause 1.4 should also be deleted.

**Typographical errors**

The Local Law contains several typographical errors.

*Clause 1.4 – definition of 'effective control'*

This definition contains unnecessary capital letters which should be corrected.

*Clause 1.4 – definition of 'nuisance'*

The word 'Interference' in paragraph (c) should start with a lower case letter.

*Clause 1.5 – Repeal*

The first use of the word 'the' in clause 1.5 should not be in italics as it does not form part of the title of the 2015 Local Law.

*Clause 2.1(5) – Cats not to be a nuisance*

There should be a full stop at the end of this clause.

*Clause 3.4(2) – Cats for which a permit is required*

The word 'or' at the end of subclause (2)(a) should instead be at the end of subclause (2)(b).

**Undertakings**

The Committee requests the following undertakings:

1. Within 6 months:
  - Delete clause 2.2, Schedule 3 and the definition of 'cat prohibited area' in clause 1.4.
  - Delete clause 3.9(1)(b).
  - Correct the typographical errors in clause 1.4, 1.5, 2.1(5) and 3.4(2).
2. Not enforce the Local Law to the contrary before it is amended in accordance with undertaking 1.
3. Ensure all consequential amendments arising from the undertakings will be made.

4. Where the Local Law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertaking.

The undertakings should be given in the form of a letter signed by you as President, not the Chief Executive Officer or other officer of the Shire of Chittering. This is because, pursuant to section 2.8(1)(d) of the *Local Government Act 1995*, the 'Mayor or President speaks on behalf of the local government' to the Parliament of Western Australia.

Noting that your Council is due to meet on 20 September 2023, the Committee requests the undertakings be provided by **27 September 2023**.

To assist you I attach a suggested form of Council resolution to provide the undertakings.

Please also note that the fulfilment of the undertakings must be by making a local law that complies with all mandatory procedural steps contained in section 3.12 of the *Local Government Act 1995*.

#### **Notice of Motion to Disallow**

I advise that the Committee resolved to give a Notice of Motion in the Legislative Council to disallow the Local Law.

The reasons for giving notice are:

- to protect the Parliament's right to disallow the Local Law should the Committee recommend disallowance
- to provide the Committee with additional time to scrutinise the local law and, if necessary, obtain further information.

The giving of the notice should not be taken as indicating that the Committee has resolved to recommend disallowance at this stage.

Please provide your response by **27 September 2023**. If you have any queries in relation to this matter, please contact Ms Felicity Mackie, Advisory Officer (Legal) on 9222 7406 or at [delleg@parliament.wa.gov.au](mailto:delleg@parliament.wa.gov.au).

Yours sincerely



**Mr Geoff Baker MLA**  
Chair

cc: Melinda Prinsloo, Chief Executive Officer, [ceo@chittering.wa.gov.au](mailto:ceo@chittering.wa.gov.au)

*This correspondence including any attachments is confidential and privileged. Your local government may only discuss the content of this letter and any attachments with the Western Australian Local Government Association, the Department of Local Government and the Shire's legal advisors to the extent necessary to obtain information the Committee seeks. Each person to whom you distribute this material must be made aware of its confidential and privileged status.*

**Suggested form of Council resolution to provide the undertakings**

The Council of the Shire of Chittering resolves to undertake to the Joint Standing Committee on Delegated Legislation that:

1. Within 6 months:
  - Delete clause 2.2, Schedule 3 and the definition of 'cat prohibited area' in clause 1.4.
  - Delete clause 3.9(1)(b).
  - Correct the typographical errors in clause 1.4, 1.5, 2.1(5) and 3.4(2).
2. Not enforce the Local Law to the contrary before it is amended in accordance with undertaking 1.
3. Ensure all consequential amendments arising from the undertakings will be made.
4. Where the Local Law is made publicly available by the Shire, whether in hard copy or electronic form, ensure that it is accompanied by a copy of the undertaking.

**LOCAL GOVERNMENT ACT 1995****CAT ACT 2011**

## SHIRE OF CHITTERING

**CATS AMENDMENT LOCAL LAW 2023**

Under the powers conferred by the *Cat Act 2011*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Chittering resolved on **????** to make the following local law.

## PART 1—PRELIMINARY

**1. Citation**

This local law may be cited as the *Shire of Chittering Cats Amendment Local Law 2023*.

**2. Commencement**

The local law comes into operation on the fourteenth after the day it is published in the Government Gazette.

**3. Principal local law**

This local law amends the *Shire of Chittering Cats Local Law 2023* as published in the *Government Gazette* on 6 June 2023.

## PART 2—AMENDMENTS

**4. Clause 1.4 Amended**

In clause 1.4:

- a) delete the definition of 'cat prohibited areas'.
- b) in the definition of '*effective control*' change all the capital letters to lower case.
- c) In the definition of '*nuisance*' delete 'Interference' and replace with 'interference'

**5. Clause 1.5 Amended**

In clause 1.5 delete '*the*' and replace with 'the'.

**6. Clause 2.1(5) Amended**

At the end of clause 2.1(5) insert a 'full stop'.

**7. Clause 2.2 Deleted**

Delete the whole of clause 2.2.

**8. Clause 3.4(2) Amended**

- a) delete the word 'or' at the end of subclause (2)(a).
- b) insert the word 'or' at the end of subclause (2)(b).

**9. Clause 3.9 Amended**

In clause 3.9:

- a) delete clause '(1) (b)'.
- b) renumber subclauses '(c)' '(d)' and '(e)' as subclauses '(b)', '(c)' and '(d)'.

**10. Schedule 3 Deleted**

Delete the whole of 'Schedule 3'.

Dated ????

The Common Seal of the Shire of Chittering was affixed by authority of a resolution of Council in the presence of -

Aaron King  
Shire President

Melinda Prinsloo  
Chief Executive Officer