

Local Government Act 1995

City of Joondalup

Local Government and Public Property Amendment Local Law 2015

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Local Government Act 1995

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Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Joondalup resolved on **dd mm** 2015 to make the following local law.

Part 1 - Preliminary

1.1 Citation

This local law may be cited as the *City of Joondalup Local Government and Public Property Amendment Local Law 2015*.

1.2 Commencement

This local law commences on the 14th day after the day on which it is published in the *Government Gazette*.

1.3 Purpose and effect

- (1) The purpose of this local law is to amend certain provisions within the *City of Joondalup Local Government and Public Property Local Law 2014*.
- (2) The effect of this local law is to enable the local government to make a determination prohibiting the placing of collection bins on local government property throughout the district.

Part 2 - Amendments

2.1 City of Joondalup Local Government and Public Property Local Law 2014 amended

This Part of the local law amends the *City of Joondalup Local Government and Public Property Local Law 2014* as published in the *Government Gazette* on 14 January 2015.

2.2 Clause 1.6 amended

In clause 1.6 insert the following definition in alphabetical order –

‘collection bin means a receptacle for the collection of clothing or goods;’.

2.3 Clause 2.8 amended

Clause 2.8 (1) is amended as follows -

- (1) In paragraph (g) delete “and”;
- (2) In paragraph (h) delete “.” and insert “; and” ; and
- (3) After paragraph (h) insert –

“(i) the placing or maintaining of a collection bin.”

Dated dd of mm 2015.

The Common Seal of the City of Joondalup)
was affixed by authority of a resolution)
of the Council in the presence of:)

.....

TROY PICKARD
MAYOR

.....

GARRY HUNT
CHIEF EXECUTIVE OFFICER

PROPOSED CITY OF JOONDALUP LOCAL GOVERNMENT AND PUBLIC PROPERTY AMENDMENT LOCAL LAW 2015
SCHEDULE OF SUBMISSIONS AND COMMENTS

ATTACHMENT 2

No.	SUMMARY OF SUBMISSION	CITY COMMENT
Department of Local Government and Communities		
1	<p>The proposed amendments will allow the City to determine whether a person may place a collection bin on local government property. These clauses allow the City to amend the operation of a local law by determination, which circumvents the lawmaking process in section 3.12 of the <i>Local Government Act 1995</i> and avoid parliamentary scrutiny.</p> <p>The Delegated Legislation Committee has allowed determination devices in the past, but only when they follow the specific clauses set out in WALGA pro-forma local laws. In other cases, there is a possibility the Committee will choose to raise concerns.</p>	<p>Noted. The City is not seeking to circumvent the lawmaking process. The current local law clearly makes provision for certain activities that the Council may determine to be prohibited on specific local government property. The City is simply seeking to add an additional activity to those already provided for. Charitable clothing collection bins placed on City and public property are causing the City and its community considerable issues. It is the intent of the City to follow the specific steps for Council to make a determination.</p>
2	<p>Clause 3.1(1)(t) of the principal local law provides that a person may not deposit or store anything on local government property without a permit. Failure to comply with this requirement will constitute an offence.</p> <p>It appears that clause 3.1 will conflict with any determinations that might be made by the City under the proposed amendments. It is suggested that consequential amendments be made to clause 3.1 to avoid any conflict.</p> <p>The Department notes that under the current local law, a person who wishes to place a collection bin on local government property without a permit can currently apply for permission to do so under clause 3.1(2). This may be more convenient than carrying out the procedure needed for a determination under clause 2.2.</p>	<p>Disagree that there is a conflict. The proposed determination is directed to a specific and defined activity, whereas clause 3.1(1)(t) is directed to a generic activity; and it ignores the fact that the City has a discretion as to whether it gives approval to any of the activities listed in clause 3. The proposed amendment is seeking to provide Council with the ability to make a determination that prohibits the placement of charitable clothing collection bins on local government property and public places, removing any discretionary ability to approve such a use.</p>
3	<p>Minor edits; word substitutions, grammar, setting out.</p>	<p>A number of minor edits were made based on the usual legal drafting standards.</p>
Spine and Limb Foundation		
1	<p>The effect of the Local Law will have an adverse impact on:</p> <ul style="list-style-type: none"> Interests of people with disabilities that Spine and Limb 	<p>The City is not opposed to the collection of clothing and other materials it is the method of collection that is the problem. The</p>

PROPOSED CITY OF JOONDALUP LOCAL GOVERNMENT AND PUBLIC PROPERTY AMENDMENT LOCAL LAW 2015
SCHEDULE OF SUBMISSIONS AND COMMENTS

No.	SUMMARY OF SUBMISSION	CITY COMMENT
	<p>serves in the City's community and throughout the metropolitan area.</p> <ul style="list-style-type: none"> Residents of the City who use the charitable recycling bins. Positive landfill diversion, prevention of pollution and the recycling and reuse benefits including in the two years to 30 June 2015 384 tonnes of donations from charity bins on City land, 278 tonnes from bins on private land as well as multiple home collections. Appears to contradict the City's own views that include diverting recyclable material from landfill. 	<p>City recognises the benefits both in supporting employment as well as diversion from landfill that the collection of clothing and other materials facilitates. In this regard the City has commenced some new more contemporary initiatives to replace the charity clothing bin on public land method of collection. These include a clothing collection day the first of which has already been successfully run. The use of charitable clothing bins however creates issues in regard to the dumping of materials, graffiti, vandalism, an attractant for anti-social behaviour and has a detrimental impact on the amenity of the facilities they are located at and the residents in the vicinity.</p>
2	<p>Donations collected from charity bins located in the City have allowed Spine and Limb to:</p> <ul style="list-style-type: none"> Create employment for both those with and without a disability. Provide care services, recreation services and member support. Provide equipment grants. 	<p>Refer response to 1 above.</p>
3	<p>Suggest that there is strong community support to keep charity bins on City land.</p>	<p>The City is of the view that there is strong community support for the removal of charity clothing bins on City land.</p>
4	<p>Spine and Limb records for twelve months to 31 October 2015 show that for each current site on public land there has been one or less report logged per month of a site requiring attention.</p>	<p>From Spine and Limb Foundations own numbers the 19 sites recorded 82 reports which is more than 1.5 reports per week. This is not just an impost on Spine and Limb in terms of making good, it also has an impact on City resources dealing with the complaints and following up as well as the impact for residents reporting matters to the City who consider that their amenity is not being appropriately managed.</p>
5	<p>Provided photographs of streets showing discarded household goods and garden waste during recent bulk rubbish collection. Suggested that there is a paradigm that this short term impact on amenity for the longer term benefit and greater good of having bulk waste removed is accepted but contrasts with the suggestion that charity clothing bins destroy the amenity of public land because</p>	<p>The City is aware that there are issues with bulk rubbish collections and has already undertaken public consultation on this issue. The City is currently exploring a range of options for how it may improve the management of bulk rubbish collections.</p>

PROPOSED CITY OF JOONDALUP LOCAL GOVERNMENT AND PUBLIC PROPERTY AMENDMENT LOCAL LAW 2015
SCHEDULE OF SUBMISSIONS AND COMMENTS

No.	SUMMARY OF SUBMISSION	CITY COMMENT
	some bin sites are infrequently subjected to illegal dumping, vandalism and littering although they also have a greater good.	
6	There is a genuine need for the service and the Local Law is both unnecessary and disproportionate and does not take into account the significant merits of charity bins and Spine and Limb believe there are alternatives to prohibiting charity bins. Regulation is strongly supported.	The City is aware of the benefits of clothing and goods collection and supports these activities. In that regard the City has commenced some new more contemporary initiatives to replace the charity clothing bin on public land method of collection. These include a clothing collection day the first of which has already been successfully run. Local Law amendment is only addressing the problems with the current method of collection on City public land and will not prohibit the placement of bins on private land.
Good Samaritan Industries (GSI)		
1	<p>The effect of the Local Law will have an adverse impact on:</p> <ul style="list-style-type: none"> • Interests of people with disabilities that GSI serves in the City's community and throughout the metropolitan area • Residents of the City who use the charitable recycling bins, shop at the Joondalup GSI store and are employed by GSI in the City • Positive landfill diversion, prevention of pollution and the recycling and reuse benefits including in the two years to 30 June 2015 246 tonnes of donations from charity bins on City land, 418 tonnes from bins on private land as well as 120 tonnes from 800 home collections • Appears to contradict the City's own views that include diverting recyclable material from landfill 	The City is not opposed to the collection of clothing and other materials it is the method of collection that is the problem. The City recognises the benefits both in supporting employment as well as diversion from landfill that the collection of clothing and other materials facilitates. In this regard the City has commenced some new more contemporary initiatives to replace the charity clothing bin on public land method of collection. These include a clothing collection day the first of which has already been successfully run. The use of charitable clothing bins however creates issues in regard to the dumping of materials, graffiti, vandalism, an attractant for anti-social behaviour and has a detrimental impact on the amenity of the facilities they are located at and the residents in the vicinity.
2	<p>Donations collected from charity bins located in the City have allowed GSI to:</p> <ul style="list-style-type: none"> • Create employment for both those with and without a disability • Provide employment assistance, support and training • The Joondalup GSI store has sold 174,845 items of recycled goods and served 54,807 customers and prohibiting charity 	Refer response to 1 above.

PROPOSED CITY OF JOONDALUP LOCAL GOVERNMENT AND PUBLIC PROPERTY AMENDMENT LOCAL LAW 2015
SCHEDULE OF SUBMISSIONS AND COMMENTS

No.	SUMMARY OF SUBMISSION	CITY COMMENT
	clothing bins will reduce the line of supply	
3	Suggest that there is strong community support to keep charity bins on City land with 936 signatures collected from customers at the Joondalup GSI store opposing the ban on charity clothing bins	The City is of the view that there is strong community support for the removal of charity clothing bins on City land.
4	GSI records for two years to 30 June 2015 show that for all current sites on public land there has been an average of one report logged every four months for a site requiring attention	From GSI's own numbers the 13 sites recorded 78 reports over two years which is just under one report per week. This is not just an impost on GSI in terms of making good, it also has an impact on City resources dealing with the complaints and following up as well as the impact for residents reporting matters to the City who consider that their amenity is not being appropriately managed.
5	There is a genuine need for the service and the Local Law is a disproportionate response and does not take into account the merits of charity bins and GSI believe there are alternatives to prohibiting charity bins. Regulation is strongly supported.	The City is aware of the benefits of clothing and goods collection and supports these activities. In that regard the City has commenced some new more contemporary initiatives to replace the charity clothing bin on public land method of collection. These include a clothing collection day the first of which has already been successfully run. Local Law amendment is only addressing the problems with the current method of collection on City public land and will not prohibit the placement of bins on private land.