

DRAFT STANDING ORDERS 2005

EXPLANATORY NOTES

1. INTRODUCTION – GENERAL APPROACH

- 1.1 The local law refers to relevant provisions of the Local Government Act 1995 and the Local Government (Administration) Regulations 1996.
- 1.2 In each case, a footnote sets out, in full, the relevant provision.
- 1.3 The footnotes are not operative provisions of the local law and may be changed from time to time without the necessity to amend the local law itself.
- 1.4 Generally speaking the approach has been to:
 - (a) use shorter sentences;
 - (b) use plain English;
 - (c) adopt a gender neutral approach; and
 - (d) follow the State legislative style.

2. PART 6 – REVOCATION MOTIONS

- 2.1 The notice requirements for revocation motions are as follows:
 - (a) the notice is to be in writing;
 - (b) the decision is to be specified;
 - (c) reasons are to be given;
 - (d) the date of the meeting is to be specified;
 - (e) it is to be signed by the required number of supporters; and
 - (f) 7 clear days notice is to be given.
- 2.2 The CEO is not to implement or continue to implement the original decision if a complying notice is received.
- 2.3 First, the mover is called upon and, secondly, any person may move the motion.
- 2.4 The motion is to lapse where:
 - (a) it is not supported;
 - (b) is not moved;
 - (c) is not seconded; or

(d) it is not carried.

3. NEW MOTIONS – CLAUSE 26

3.1 The general position is that notice is required of new motions.

3.2 The notice requirements are:

- (a) it is to be in writing; and
- (b) 7 clear days notice is to be given.

3.3 If the motion is relevant to either:

- (a) a recommendation in the report on the agenda; or
- (b) a motion on the agenda,

then no notice is required.

4. SUSPENDING STANDING ORDERS

4.1 There is no general power to suspend standing orders.

4.2 There is a specific power to suspend the limitation on speeches. See clause 54(5).

4.3 There is, however, a power for the chairperson to determine procedure to be observed where there is no provision in the local law or insufficient provision is made. See clause 80.

5. PRESERVING ORDER

5.1 Clause 45 deals with disorder by members of the Council.

If a member persists in conduct considered out of order by the chairperson then the chairperson may direct the member to refrain from taking any further part in the meeting other than by voting. See clause 45(3).

5.2 Disorder by members of the public is dealt by clause 46.

A member of the public who fails to observe a direction given by the chairperson commits an offence.

5.3 If the chairperson considers that the business of the meeting cannot be continued owing to serious disorder then the chairperson may adjourn the meeting. See clause 47.

6. DISAGREEING WITH THE CHAIR'S RULING

6.1 The meeting may carry a motion that the chairperson's ruling be disagreed with. See clause 69.

6.2 The chairperson's ruling may, for example, relate to a point of order or a personal explanation. See clauses 42 and 44.

- 6.3 A motion disagreeing with the chairperson's ruling must be made immediately after the ruling. See clause 59.
- 6.4 The mover is limited to 5 minutes debate. See clause 60(1).
- 6.5 There is to be no other debate. See clause 60(1).

CITY OF JOONDALUP
STANDING ORDERS LOCAL LAW 2005
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PART 1 - PRELIMINARY

1. Title

This local law may be referred to as the City of Joondalup Standing Orders Local Law 2005.

2. Commencement

This local law comes into operation 14 days after its publication in the Government Gazette.

3. Purpose and intent

- (1) The purpose of this local law is to provide a set of procedures to assist in the good conduct of meetings of the Council, of committees and of the electors.
- (2) This local law is intended to result in:
 - (a) better decision making by the Council;
 - (b) orderly and efficient conduct of meetings dealing with business of the Council;
 - (c) community participation and understanding of the business of the Council; and
 - (d) open and accountable local government.

4. **Repeal**

The former City of Wanneroo Standing Orders Local Law 1997, as published in the Government Gazette on 30 October 1997, is repealed on the day this local law comes into operation.

5. **Definitions**

In this local law, unless the contrary intention appears:

“Act” means the Local Government Act 1995;

“CEO” means the chief executive officer of the City;

“City” means the City of Joondalup;

“committee” means a committee of the Council established under the Act;

“Council” means the council of the City;

“elected member” means the mayor and councillors of the City;

“meeting” means a meeting of the Council or a committee;

“member” means the mayor or a councillor and includes, in the case of a committee, a member of the committee who is not the mayor or a councillor;

“presiding person” means any person presiding at a meeting;

“Regulations” means the Local Government (Administration) Regulations 1996.

PART 2 - MEETINGS OF COUNCIL AND COMMITTEE

6. Calling of meetings

The calling of meetings is dealt with in the Act.

Footnote:

Section 5.4 of the Act provides:

Calling council meetings (Act)

5.4 An ordinary or a special meeting of a council is to be held:

(a) if called for by either:

(i) the mayor or president; or

(ii) at least 1/3 of the councillors,

*in a notice to the CEO setting out the date and purpose of the proposed meeting;
or*

(b) if so decided by the council.

7. Notice of meeting and notice of adjournment

(1) The giving of notice of meetings of the Council is dealt with in the Act and the giving of public notice of meetings is dealt with in the Regulations.

Footnote:

Section 5.5 of the Act and regulation 12 of the Regulations provide:

Convening council meetings (Act)

5.5. (1) The CEO is to convene an ordinary meeting by giving each council member at least 72 hours' notice of the date, time and place of the meeting and an agenda for the meeting.

(2) The CEO is to convene a special meeting by giving each council member notice, before the meeting, of the date, time, place and purpose of the meeting.

Public notice of council or committee meetings (Admin. Reg.)

12. (1) At least once each year a local government is to give local public notice of the dates on which and the time and place at which —

(a) the ordinary council meetings; and

(b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public,

are to be held in the next 12 months.

- (2) *A local government is to give local public notice of any change to the date, time or place of a meeting referred to in subregulation (1).*
- (3) *Subject to subregulation (4), if a special meeting of a council is to be open to members of the public then the local government is to give local public notice of the date, time, place and purpose of the special meeting.*
- (4) *If a special meeting of a council is to be open to members of the public but, in the CEO's opinion, it is not practicable to give local public notice of the matters referred to in subregulation (3), then the local government is to give public notice of the date, time, place and purpose of the special meeting in the manner and to the extent that, in the CEO's opinion, is practicable.*

- (2) How documents can be given to a person is dealt with in the Act and the Interpretation Act 1984.

Footnote:

Sections 9.50 and 9.54 of the Act and sections 75 and 76 of the Interpretation Act 1984 provide:

Giving documents to persons, generally (Act)

9.50 Unless otherwise stated in this Act, a document may be given to a person in any of the ways provided for by sections 75 and 76 of the Interpretation Act 1984.

Defects in documents

9.54 A document is not ineffective, nor is it to be regarded as having been not properly given, only because of an error, misdescription, or irregularity in the document or the way it is addressed that is not likely to mislead or does not in fact mislead.

Interpretation Act 1984

Service of documents by post

- 75. (1) *Where a written law authorises or requires a document to be served by post, whether the word “serve” or any of the words “give”, “deliver”, or “send” or any other similar word or expression is used, service shall be deemed to be effected by properly addressing and posting (by pre-paid post) the document as a letter to the last known address of the person to be served, and, unless the contrary is proved, to have been effected at the time when the letter would have been delivered in the ordinary course of post.*
- (2) *Where a written law authorises or requires a document to be served by registered post, whether the word “serve” or any of the words “give”, “deliver”, or “send” or any other similar word or expression is used, then, if the document is eligible and acceptable for transmission as certified mail, the service of the document may be effected either by registered post or by certified mail.*
- (3) *Subsections (1) and (2) apply unless the contrary intention appears and subsection (2) does not apply where a written law requires the production of an acknowledgment signed by a person to whom a document was addressed to the effect that the document was delivered to that person.*

Service of documents generally

76. *Where a written law authorises or requires a document to be served, whether the word “serve” or any of the words “give”, “deliver”, or “send” or any other similar word or expression is used, without directing it to be served in a particular manner, service of that document may be effected on the person to be served –*

- (a) by delivering the document to him personally; or*
- (b) by post in accordance with section 75(1); or*
- (c) by leaving it for him at his usual or last known place of abode, or if he is a principal of a business, at his usual or last known place of business; or*
- (d) in the case of a corporation or of an association of persons (whether incorporated or not), by delivering or leaving the document or posting it as a letter, addressed in each case to the corporation or association, at its principal place of business or principal office in the State.*

- (3) When a meeting is adjourned to a day and hour other than the next ordinary meeting, notice of the resumption of the adjourned meeting, if time permits, is to be given to each member specifying the nature of the business to be transacted.

8. Public access to agendas and supporting information

Public access to agendas and supporting documentation is dealt with in the Regulations.

Footnote:

Regulation 14 of the Regulations provides:

Public inspection of certain documents relating to council or committee meetings (Admin. Reg.)

14. (1) *A local government is to ensure that notice papers and agenda relating to any council or committee meeting and reports and other documents which —*

- (a) are to be tabled at the meeting; or*
- (b) have been produced by the local government or a committee for presentation at the meeting,*

and which have been made available to members of the council or committee for the meeting are available for inspection by members of the public from the time the notice papers, agenda or documents were made available to the members of the council or committee.

- (2) *Nothing in subregulation (1) entitles members of the public to inspect the information referred to in that subregulation if, in the CEO's opinion, the meeting or that part of the meeting to which the information refers is likely to be closed to members of the public under section 5.23(2).*

9. Public access to unconfirmed minutes of Council and committee meetings

Public access to unconfirmed minutes of Council and committee meetings is dealt with in the Regulations.

Footnote:

Regulation 13 of the Regulations provides:

Public inspection of unconfirmed minutes of council or committee meetings (Admin. Reg.)

13. *A local government is to ensure that unconfirmed minutes of each council and committee meeting are available for inspection by members of the public —*

- (a) in the case of a council meeting, within 10 business days after the meeting; and*
- (b) in the case of a committee meeting, within 5 business days after the meeting.*

10. Quorum for meetings

The requirements for a quorum for a meeting are dealt with in the Act.

Footnote:

Sections 5.19 and 5.7 of the Act provide:

Quorum for meetings (Act)

5.19 *The quorum for a meeting of a council or committee is at least 50% of the number of offices (whether vacant or not) of member of the council or the committee.*

Minister may reduce number for quorum and certain majorities

- 5.7 (1) *The Minister may reduce the number of offices of member required for a quorum at a council meeting specified by the Minister if there would not otherwise be a quorum for the meeting.*
- (2) *The Minister may reduce the number of offices of member required at a council meeting to make a decision specified by the Minister if the decision is one which would otherwise be required to be made by an absolute majority and a sufficient number of members would not otherwise be present at the meeting.*

11. Procedure if quorum not present

The procedure where a quorum for a meeting is not present is dealt with in the Regulations.

Footnote:

Regulation 8 of the Regulations provides:

Procedure where no quorum at council or committee meetings (Admin. Reg.)

8. *If a quorum has not been established within the 30 minutes after a council or committee meeting is due to begin then the meeting can be adjourned —*

- (a) *in the case of a council, by the mayor or president or if the mayor or president is not present at the meeting, by the deputy mayor or deputy president;*
- (b) *in the case of a committee, by the presiding member of the committee or if the presiding member is not present at the meeting, by the deputy presiding member;*
- (c) *if no person referred to in paragraph (a) or (b), as the case requires, is present at the meeting, by a majority of members present;*
- (d) *if only one member is present, by that member; or*
- (e) *if no member is present or if no member other than the CEO is present, by the CEO or a person authorised by the CEO.*

12. Lapse of quorum

- (1) If at any time during any meeting a quorum is not present, the presiding person upon becoming aware of the fact, is to suspend the proceedings of the meeting for a period of 15 minutes.
- (2) If a quorum is not present at the expiration of the 15 minutes suspension period the presiding person is to adjourn the meeting to a future time and date.
- (3) A record is to be taken of all those who have spoken on the subject under consideration at the time of the adjournment and be recorded in the minutes of the meeting.
- (4) Where the debate on any motion is interrupted at a meeting, which is adjourned due to lack of a quorum, that debate is to be resumed at the resumption of the meeting at the point where it was interrupted.
- (5) The members who have spoken on the motion at the adjourned meeting, must not speak again on resumption of that meeting, except the mover who retains the right of reply.
- (6) At any meeting where a quorum is not present or there is an adjournment due to the lack of a quorum the names of the members then present are to be recorded in the minute book.

13. Voting

- (1) Voting at meetings is dealt with in the Act and the Regulations.

Footnote:

Section 5.21 of the Act and regulation 9 of the Regulations provide:

Voting (Act)

- 5.21 (1)** *Each council member and each member of a committee who is present at a meeting of the council or committee is entitled to one vote.*

- (2) *Subject to section 5.67, each council member and each member of a committee to which a local government power or duty has been delegated who is present at a meeting of the council or committee is to vote.*
- (3) *If the votes of members present at a council or a committee meeting are equally divided, the person presiding is to cast a second vote.*
- (4) *If a member of a council or a committee specifically requests that there be recorded -*
 - (a) *his or her vote; or*
 - (b) *the vote of all members present,**on a matter voted on at a meeting of the council or the committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.*

Voting at council or committee meetings (Admin. Reg.)

- 9. *Voting at a council or committee meeting is to be conducted so that no voter's vote is secret.*

- (2) In taking the vote on any motion or amendment, the presiding person must put the question first in the affirmative and then in the negative and may do so as often as is necessary, to form and declare an opinion as to whether the affirmative or the negative has the majority.

PART 3 - BUSINESS AT MEETINGS**14. Order of business**

- (1) The order of business at an ordinary meeting of the Council shall, unless otherwise resolved by the Council, be as follows:

Declaration of opening /announcement of Visitors
Public question time
Public statement time
Apologies/leave of absence
Confirmation of minutes
Announcements by the presiding person without discussion
Declarations of interests
Identification of matters for which the meeting may sit behind closed doors
Petitions
Reports
Motions of which previous notice has been given
Closure

- (2) The order of business at an ordinary meeting of a committee shall, unless otherwise resolved by the committee, be as follows:

Declaration of opening
Public question time
Public statement time
Apologies/leave of absence
Confirmation of minutes
Announcements by the presiding person without discussion
Declarations of interests
Identification of matters for which the meeting may sit behind closed doors
Petitions and deputations
Reports
Motions of which previous notice has been given
Requests for reports for future consideration
Closure

- (3) The order of business at any special meeting of the Council or a committee shall be in the order in which it appears in the agenda.
- (4) Unless otherwise decided by the members present, the items of business for a meeting of the Council or a committee shall be considered in the sequence that they are listed in the agenda.
- (5) At the resumption of an adjourned meeting the only business to be transacted is that which remains outstanding on the agenda of the adjourned meeting.

15. Public question time

- (1) Public question time at meetings is dealt with in the Act and Regulations.
- (2) The presiding person is responsible for the conduct of public question time.
- (3) The presiding person is to endeavour to have every question responded to at the meeting at which it is asked but where this is not possible, the question is to be taken on notice and where practicable, a written response is to be provided to the person who asked the question.
- (4) A member of the public wanting to ask a question during public question time must first state their name and address.
- (5) Questions asked by the public are to relate to the business of the Council and are not to be in the form of a statement or a personal opinion.
- (6) The procedure for the asking of and responding to questions raised by members of the public may be determined by resolution of the Council.
- (7) Notwithstanding clause 14(2) there is to be no public question time in meetings of committees other than a committee to which the local government has delegated a power or duty.

Footnote :

Section 5.24 of the Act and regulations 5, 6 and 7 of the Regulations provide:

Question time for the public (Act)

- 5.24 (1) Time is to be allocated for questions to be raised by members of the public and responded to at –*
- (a) every ordinary meeting of a council; and*
 - (b) such other meetings of councils or committees as may be prescribed.*
- (2) Procedures and the minimum time to be allocated for the asking of and responding to questions raised by members of the public at council or committee meetings are to be in accordance with regulations.*

Question time for the public at certain meetings (Admin. Reg.)

- 5. For the purposes of section 5.24(1)(b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are —*
- (a) every special meeting of a council;*
 - (b) every meeting of a committee to which the local government has delegated a power or duty.*

Minimum question time for the public

6. (1) *The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of councils and meetings referred to in regulation 5 is 15 minutes.*
- (2) *Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in subregulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.*

Procedures for question time for the public

7. (1) *Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) are to be determined —*
 - (a) *by the person presiding at the meeting; or*
 - (b) *in the case where the majority of members of the council or committee present at the meeting disagree with the person presiding, by the majority of those members,**having regard to the requirements of subregulations (2), (3) and (5).*
- (2) *The time allocated to the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the council or the committee, as the case may be.*
- (3) *Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.*
- (4) *Nothing in subregulation (3) requires —*
 - (a) *a council to answer a question that does not relate to a matter affecting the local government;*
 - (b) *a council at a special meeting to answer a question that does not relate to the purpose of the meeting; or*
 - (c) *a committee to answer a question that does not relate to a function of the committee.*
- (5) *If, during the time allocated for questions to be raised by members of the public and responded to, a question relating to a matter in which a relevant person has an interest, as referred to in section 5.60, is directed to the relevant person, the relevant person is to —*
 - (a) *declare that he or she has an interest in the matter; and*
 - (b) *allow another person to respond to the question.*

16. Public statement time

- (1) The procedure for the making of statements by members of the public may be determined by resolution of the Council.
- (2) Notwithstanding clause 14(2) there is to be no public statement time in meetings of committees other than a committee to which the local government has delegated a power or duty.

17. Application for leave of absence from Council meeting

The requirements for members to obtain leave of absence from meetings of the Council are dealt with in the Act.

Footnote :

Section 2.25 of the Act provides:

Disqualification for failure to attend meetings (Act)

- 2.25 (1) *A council may, by resolution, grant leave of absence, to a member.*
- (2) *Leave is not to be granted to a member in respect of more than 6 consecutive ordinary meetings of the council without the approval of the Minister.*
 - (3) *The granting of the leave is to be recorded in the minutes of the meeting.*
 - (4) *A member who is absent, without first obtaining leave of the council, throughout 3 consecutive ordinary meetings of the council is disqualified from continuing his or her membership of the council.*
 - (5) *The non-attendance of a member at the time and place appointed for an ordinary meeting of the council does not constitute absence from an ordinary meeting of the council:*
 - (a) *if no meeting of the council at which a quorum is present is actually held on that day; or*
 - (b) *if the non-attendance occurs while:*
 - (i) *the member has ceased to act as a member after written notice has been given to the member under section 2.27(3) and before written notice has been given to the member under section 2.27(5);*
 - (ii) *while proceedings in connection with the disqualification of the member have been commenced and are pending; or*
 - (iii) *while the election of the member is disputed and proceedings relating to the disputed election have been commenced and are pending.*

18. Confirmation of minutes

- (1) The requirements for keeping minutes of meetings and the content of minutes are dealt with in the Act and the Regulations.

Footnote:

Section 5.22 of the Act and regulation 11 of the Regulations provide:

Minutes of council and committee meetings (Act)

- 5.22 (1) *The person presiding at a meeting of a council or a committee is to cause minutes to be kept of the meeting's proceedings.*
- (2) *The minutes of a meeting of a council or a committee are to be submitted to the next ordinary meeting of the council or the committee, as the case requires, for confirmation.*
- (3) *The person presiding at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.*

Content of minutes of council or committee meetings (Admin. Reg.)

11. *The content of minutes of a meeting of a council or a committee is to include —*
- (a) *the names of the members present at the meeting;*
- (b) *where a member enters or leaves the meeting during the course of the meeting, the time of entry or departure, as the case requires, in the chronological sequence of the business of the meeting;*
- (c) *details of each motion moved at the meeting, the mover and the outcome of the motion;*
- (d) *details of each decision made at the meeting;*
- (e) *a summary of each question raised by members of the public at the meeting and a summary of the response to the question; and*
- (f) *in relation to each disclosure made under section 5.65 or 5.70 in relation to the meeting, where the extent of the interest has also been disclosed, the extent of the interest.*

- (2) When considering the minutes of a previous meeting, the only discussion permitted is that relating to the accuracy of the minutes.

19. Announcements by presiding person without discussion

At any meeting of the Council or committee the presiding person may announce or raise any matter of interest or affecting the City and there is not to be any discussion on the matter.

20. Disclosure of financial and proximity interests

The requirements for disclosure of any interest as defined in section 5.60 are dealt with in Part 5 of the Act.

Footnote:

Sections 5.60 to 5.70 of the Act provide:

When a person has an "interest"

5.60 *For the purposes of this Subdivision, a relevant person has an interest in a matter if either –*

- (a) the relevant person; or*
- (b) a person with whom the relevant person is closely associated,*
has –
- (c) a direct or indirect financial interest in the matter; or*
- (d) a proximity interest in the matter.*

Financial interest

5.60A *For the purposes of this Subdivision, a person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government in a particular way, result in a financial gain, loss, benefit or detriment for the person.*

5.60B (1) *For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns –*

- (a) a proposed change to a planning scheme affecting land that adjoins the person's land;*
- (b) a proposed change to the zoning or use of land that adjoins the person's land or*
- (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.*

(2) *In this section, land (“**the proposal land**”) adjoins a person's land if –*

- (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land;*
- (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or*
- (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.*

(3) *In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.*

Indirect financial interests

5.61 *A reference in this Subdivision to an indirect financial interest of a person in a matter includes a reference to a financial relationship between that person and another person who requires a local government decision in relation to the matter.*

Closely associated persons

5.62 (1) *For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if –*

- (a) the person is in partnership with the relevant person;*
 - (b) the person is an employer of the relevant person;*
 - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee;*
 - (d) the person is a body corporate –*
 - (i) of which the relevant person is a director, secretary or executive officer; or*
 - (ii) in which the relevant person holds shares having a total nominal value exceeding –*
 - (I) the prescribed amount; or*
 - (II) the prescribed percentage of the total nominal value of the issued share capital of the company,*
- whichever is less;*
- (e) the person is the spouse, de facto partner or child of the relevant person and is living with the relevant person;*
 - (ea) the relevant person is a council member and the person –*
 - (i) gave a notifiable gift to the relevant person in relation to the election at which the relevant person was last elected; or*
 - (ii) has given a notifiable gift to the relevant person since the relevant person was last elected;*

or

- (f) the person has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse or de facto partner if the spouse or de facto partner is living with the relevant person.*

(2) In subsection (1)(ea) –

“notifiable gift” *means a gift about which the relevant person was or is required by regulations under section 4.59(a) to provide information in relation to an election.*

Some interests need not be disclosed

5.63 (1) *Sections 5.65, 5.70 and 5.71 do not apply to a relevant person who has any of the following interests in a matter –*

- (a) *an interest common to a significant number of electors or ratepayers;*
 - (b) *an interest arising from the imposition of any rate, charge or fee by the local government;*
 - (c) *an interest relating to a fee, reimbursement of an expense or an allowance to which section 5.98, 5.99, 5.100 or 5.101(2) refers;*
 - (d) *an interest relating to the pay, terms or conditions of an employee unless -*
 - (i) *the relevant person is the employee; or*
 - (ii) *either the relevant person's spouse, de facto partner or child is the employee if the spouse, de facto partner or child is living with the relevant person;*
 - (e) *an interest arising only because the relevant person is, or may become, a member of the council of a regional local government;*
 - (f) *an interest arising only because the relevant person is, or intends to become, a member or office bearer of a body with non-profit making objects;*
 - (g) *an interest arising only because the relevant person is, or intends to become, a member, office bearer, officer or employee of a department of the Public Service of the State or Commonwealth or a body established under a written law; or*
 - (h) *a prescribed interest.*
- (2) *If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by -*
- (a) *any proposed change to a planning scheme for any area in the district;*
 - (b) *any proposed change to the zoning or use of land in the district; or*
 - (c) *the proposed development of land in the district,*
- then, subject to subsection (3) and (4), the person is not to be treated as having an interest in a matter for the purposes of sections 5.65, 5.70 and 5.71.*
- (3) *If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by -*
- (a) *any proposed change to a planning scheme for that land or any land adjacent to that land;*
 - (b) *any proposed change to the zoning or use of that land or any land adjacent to that land; or*
 - (c) *the proposed development of that land or any land adjacent to that land,*

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (4) *If a relevant person has a financial interest because any land in which the person has any interest other than an interest relating to the valuation of that land or any land adjacent to that land may be affected by -*

- (a) *any proposed change to a planning scheme for any area in the district;*
- (b) *any proposed change to the zoning or use of land in the district; or*
- (c) *the proposed development of land in the district,*

then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.

- (5) *A reference in subsection (2), (3) or (4) to the development of land is a reference to the development, maintenance or management of the land or of services or facilities on the land.*

Members' interests in matters to be discussed at meetings to be disclosed (Act)

- 5.65 (1) *A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest:*

- (a) *in a written notice given to the CEO before the meeting; or*
- (b) *at the meeting immediately before the matter is discussed.*

Penalty: \$10 000 or imprisonment for 2 years.

- (2) *It is a defence to a prosecution under this section if the member proves that he or she did not know:*

- (a) *that he or she had an interest in the matter; or*
- (b) *that the matter in which he or she had an interest would be discussed at the meeting.*

- (3) *This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).*

Meeting to be informed of disclosures

- 5.66 *If a member has disclosed an interest in a written notice given to the CEO before a meeting then:*

- (a) *before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and*
- (b) *at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.*

Disclosing members not to participate in meetings

5.67 *A member who makes a disclosure under section 5.65 must not:*

- (a) preside at the part of the meeting relating to the matter; or*
- (b) participate in, or be present during, any discussion or decision making procedure relating to the matter,*

unless, and to the extent that, the disclosing member is allowed to do so under section 5.68 or 5.69.

Penalty: \$10 000 or imprisonment for 2 years.

Councils and committees may allow members disclosing interests to participate etc, in meetings.

5.68 (1) *If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter:*

- (a) may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and*
- (b) may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if:*
 - (i) the disclosing member also discloses the extent of the interest; and*
 - (ii) those members decide that the interest:*
 - (I) is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or*
 - (II) is common to a significant number of electors or ratepayers.*

(2) A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the council or committee.

(3) This section does not prevent the disclosing member from discussing, or participating in the decision making process on, the question of whether an application should be made to the Minister under section 5.69.

Minister may allow members disclosing interests to participate etc in meetings.

5.69 (1) *If a member has disclosed, under section 5.65, an interest in a matter, the council or the CEO may apply to the Minister to allow the disclosing member to participate in the part of the meeting, and any subsequent meeting, relating to the matter.*

(2) An application made under subsection (1) is to include:

- (a) *details of the nature of the interest disclosed and the extent of the interest; and*
 - (b) *any other information required by the Minister for the purposes of the application.*
- (3) *On an application under this section the Minister may allow, on any condition determined by the Minister, the disclosing member to preside at the meeting, and at any subsequent meeting, (if otherwise qualified to preside) or to participate in discussions or the decision making procedures relating to the matter if:*
- (a) *there would not otherwise be a sufficient number of members to deal with the matter; or*
 - (b) *the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.*
- (4) *A person must not contravene a condition imposed by the Minister under this section.*

Penalty: \$10 000 or imprisonment for 2 years.

Employees to disclose interests relating to advice or reports

- 5.70 (1) *In this section, “employee” includes a person who, under a contract for services with the local government, provides advice or a report on a matter.*
- (2) *An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.*
- (3) *An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.*

Penalty: \$10 000 or imprisonment for 2 years.

21. Disclosure of interest affecting impartiality

The disclosure of interests affecting impartiality is dealt with by the Code of Conduct adopted by the Council.

Footnote:

Clause 5.1 of the Code of Conduct adopted by the Council provides as follows:

Conflict of Interest

- 5.1 *Elected Members, Committee Members and Employees should ensure that there is no actual or perceived conflict or incompatibility between the impartial fulfillment of their public or professional duties and either their personal interests, or those of their immediate family members, business partners or close associates. Specifically;*

- (a) *All employees have a duty of fidelity and good faith towards the City.*

An employee must make written disclosure and receive written permission from the CEO before acting in or taking up an interest (direct or indirect) in any capacity in any trade, business or occupation whatsoever, other than the business of the City, that may interfere with or compromise the employee's performance.

Employees shall comply with the Local Government (Functions and General) Regulations 1996, in any instance where they are involved in any manner with tendering for a Council contract.

In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of public duties must be scrupulously avoided.

- (b) *Employees must notify the CEO in writing prior to undertaking a dealing in land in the area of the Council (other than purchasing the principal place of residence, or site for such purpose.)*
- (c) *Employees who exercise a regulatory, inspectorial or other discretionary function must make disclosure before dealing with relatives or close friends and, whenever possible, or in doubt, should disqualify themselves from dealing with those persons. This disclosure must be made to their Director.*

The mere fact that a person has both a public or professional duty and a private or personal interest in relation to a particular matter does not mean that the two must be in conflict. A conflict of interest arises if it is likely that the person with the private or personal interest could be prejudicially influenced in the performance of his/her public or professional duties by that interest, or that a reasonable person would believe that the person could be so influenced.

Disclosure of Interest

- 5.2 (a) *Elected Members, Committee Members and Employees will adopt the principles of disclosure of interest as contained within the Local Government Act 1995 and the Financial Interests Manual as prepared by the Department of Local Government.*
- (b) *Whenever disclosure is required by (a) above, or otherwise seems appropriate, it will be made promptly, fully, and in writing to the CEO prior to the Meeting.*
- (c) *Elected Members, Committee Members or Employees are required to disclose any interest, where they believe that the public may have a perception that their impartiality may come into question. The disclosure must occur when the matter is to be discussed at a Council or committee meeting where the person who has the interest will be in attendance and/or has given, or will give, advice.*
- (d) *The disclosing of an interest as detailed in (b) and (c) above is to be made immediately before the matter is discussed or at the time the advice is given, and shall be recorded in the minutes of the Meeting.*

- (e) *The disclosure of an interest in (c) above does not affect the ability of the Elected Member, Committee Member or Employee to discuss or vote on the matter.*

22. Petitions

- (1) A petition received by a member or the CEO is to be presented to the next ordinary Council meeting.
- (2) Any petition to the Council is:
 - (a) as far as practicable to be prepared in the form prescribed in the Schedule;
 - (b) to be addressed to the Council and forwarded to a member or the CEO; and
 - (c) to state the name and address of the person to whom correspondence in respect of the petition may be served.
- (3) Once a petition is presented to the Council, a motion may be moved to receive the petition and refer it to the CEO for action.

23. Deputations to committee meetings

- (1) Any person or persons wishing to be received as a deputation by a committee, must in the first instance, give a request in writing to the CEO setting out in concise terms the matter to be raised by the deputation.
- (2) When the CEO receives a request for a deputation to a committee, the request is to be brought to the attention of the presiding person of the relevant committee. The presiding person is to decide if a deputation is to be received and, if so, when it is to be received.
- (3) A deputation is not to exceed 5 persons in number and only 3 of those persons may address the meeting, but all may reply to questions from members of the committee.
- (4) Members of a deputation are collectively to have a maximum of 15 minutes to address the meeting, unless an extension of time is granted by the committee.

24. Identification of matters for which the meeting may sit behind closed doors

For the convenience of members of the public, the Council may by resolution identify those matters on the agenda that are to be discussed behind closed doors and defer those matters to be considered as the last reports at the meeting.

25. Reports

- (1) The functions of the CEO including to advise the Council and implement decisions are dealt with in the Act.

Footnote:

Section 5.41 of the Act provides:

5.41 The CEO's functions are to:

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;*
- (b) ensure that advice and information is available to the council so that informed decisions can be made;*
- (c) cause council decisions to be implemented;*
- (d) manage the day to day operations of the local government;*
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;*
- (f) speak on behalf of the local government if the mayor or president agrees;*
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);*
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.*

- (2) The CEO may prepare or come to be prepared any report that in the CEO's opinion requires consideration by the Council, including any report of a late or urgent nature.
- (3) A committee may make a recommendation which:
 - (a) is relevant to the purpose for which the committee is established by the Council; and
 - (b) the committee considers requires consideration by the Council.
- (4) Where a committee makes a recommendation for consideration by the Council, the CEO shall prepare or cause to be prepared a report to the Council with respect to the recommendation.

26. Motions of which previous notice has been given

- (1) A member may raise at a meeting any business that the member considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO.
- (2) Subject to subclause (3) a notice of motion under subclause (1) is to be signed by the member and given to the CEO at least 7 clear days before the meeting at which it is to be moved.

- (3) The requirement to give notice of a motion under subclause (1) does not apply where the proposed motion is relevant to:
 - (a) a recommendation made by or contained in a report on the agenda; or
 - (b) a notice of motion that appears on the agenda,and is moved after the motion has been dealt with.
- (4) The Council may, by an absolute majority, dispense with the requirement to give notice under subclause (1) where the Council is satisfied that:
 - (a) the motion is a matter of urgency and the motion could not reasonably be dealt with at the next ordinary meeting of the Council; and
 - (b) that it was not reasonable for the notice to be given.
- (5) A notice of motion lapses unless the member who gave the notice or some other member authorised in writing by the member who gave the notice, moves the motion at the meeting at which it is to be considered.
- (6) Where a notice of motion is given and lapses in circumstances referred to under subclause (5), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of the lapse.
- (7) A motion of which previous notice has been given is to relate to the good government of persons in the district.
- (8) A notice of motion of which the subject matter is does not relate to a matter affecting the City, may be ruled out of order by the presiding person.
- (9) Where a notice of motion under subclause (1) contains any word or words which:
 - (a) reflect adversely on the character or actions of a member, officer or other person; or
 - (b) impute any motive to any member or officer; or
 - (c) are offensive or insulting,then the CEO:
 - (i) after consultation with the mayor, may reject the motion; or
 - (ii) after consultation with the member who submitted the motion, may amend the form but not the substance of the motion so as to delete the offensive or insulting word or words.

27. Meeting closure

At the conclusion of all business or when otherwise determined by the meeting, the presiding person is to declare the meeting closed and state the closing time.

PART 4 - CONDUCT OF MEETINGS**28. Official titles to be used**

Members, when referring to others, must refer to them by their titles of mayor, deputy mayor, councillor, or in the case of an employee by the employee's title.

29. Seating

- (1) At the first meeting following each ordinary election, the CEO is to allocate a seat in the Council chamber to each member.
- (2) The seat to the right of the mayor is to remain available for seating of any distinguished visitor.
- (3) The deputy mayor is to be allocated a seat in the council chamber next to the fellow ward representative of the deputy mayor.
- (4) Each member must occupy his or her allocated position when present at a meeting of the Council until the Council decides to reallocate positions.
- (5) The CEO is to sit immediately to the left of the mayor.

30. Distinguished visitor seating

If a distinguished visitor is present at a meeting of the Council or a committee, the presiding person may invite that person to sit beside the presiding person or at the meeting table.

31. Media attendance and seating

Media representatives are permitted to attend meetings of the Council and be seated in that part of the Council chamber or meeting room that may be set aside for their use, but must leave the meeting during any period when the meeting is closed to the public.

32. Order of speakers

When 2 or more members indicate their desire to speak at the same time the presiding person is to decide who is entitled to priority.

33. Members not to interrupt

A member shall not:

- (a) make any noise or disturbance or converse in a loud manner whilst any other member is addressing a meeting; or
- (b) cause any interruption or speak out of turn during a meeting, other than to raise a point of order, make a personal explanation or move a procedural motion.

34. No member to cross the floor

When the presiding person is putting any motion, a member must not cross the floor, and whilst any other member is speaking, must not pass between the speaker and the presiding person or pass behind the presiding person.

35. Presiding person may participate in discussion

- (1) The voting entitlement of a presiding person at a meeting is dealt with in the Act.

Footnote:

Section 5.21 of the Act is set out in the footnote to clause 13.

- (2) The presiding person may participate in the discussion of any motion before the meeting provided that the presiding person addresses the meeting before the right of reply is exercised.

36. Presiding person to be heard without interruption

Whenever the presiding person signifies a desire to speak at any time during the meeting, any member speaking or offering to speak must be silent, so that the presiding person may be heard without interruption.

37. No adverse reflection

- (1) No member of the Council or a committee is to reflect adversely upon a decision of the Council or committee except on a motion that the decision be revoked or changed.
- (2) No member of the Council or a committee is to use an objectionable expression in reference to any member, employee of the Council or any other person.
- (3) A member of the Council or a committee may request that any words used by a member, be recorded in the minutes immediately after their use.

38. Withdrawal of offensive language

- (1) A member who uses an expression which, in the opinion of the presiding person:
 - (a) reflects adversely on the character or actions of a member, officer or other person; or
 - (b) imputes any motive to any member or officer; or
 - (c) is offensive or insulting,
 must, when directed by the presiding person, unreservedly withdraw the expression and make an unconditional apology.
- (2) Where a member fails to comply with a direction of the presiding person under subclause (1), the presiding person may refuse to hear the member further on the matter then under discussion and call on the next speaker.

39. Relevance to debate

When addressing a meeting on any motion or other business, members must confine their remarks to the motion or other business and not digress.

40. Presiding person to draw attention of meeting to unbecoming behaviour

The presiding person may call the attention of the meeting to continued irrelevance, tedious repetition, unbecoming language or any breach of order, or decorum on the part of a member, and may direct the member, if speaking, to discontinue speaking, and the member must immediately cease speaking and if standing be seated.

41. Personal explanation

- (1) A member of the Council or committee must not speak at any meeting, except on the matter then before the Council or committee, unless it is to make a personal explanation.
- (2) A member of the Council or committee wishing to make a personal explanation of matters referred to by any other member of the Council or committee then speaking, is entitled to be heard:
 - (a) immediately if the member then speaking consents at the time; or
 - (b) at the conclusion of the speech if the member then speaking declines to give way.
- (3) A member of the Council or committee permitted to make a personal explanation must confine comments to a succinct statement relating to a specific part of the former speech that may have been misunderstood and the member is not to refer to matters not strictly necessary for that purpose and is not to seek to strengthen his or her former argument by new matter or by replying to other members.

42. Ruling on questions of personal explanation

The ruling of the presiding person on the admissibility of a personal explanation is final unless a motion of dissent with the ruling is moved before any other business proceeds.

43. Point of order

- (1) A member may direct the presiding person's attention to a breach of this local law by any other member and is to specify the grounds of the breach.
- (2) A member expressing a difference of opinion with, or contradicting, a speaker is not to be recognised as raising a point of order.
- (3) The presiding person is to decide all points of order and the decision of the presiding person is final and must be accepted by the meeting without argument or comment, unless in any particular case, the Council then resolves that a different ruling is to be substituted for the ruling given by the presiding person.
- (4) A motion, amendment or other business ruled to be out of order, is to be no longer discussed and requires no resolution.

- (5) Where anything said or done by a member is ruled out of order, the presiding person may require the member to make an explanation, retraction or apology as the case may be.

44. Preservation of order – Council members

- (1) The presiding person is to preserve order at all times and may call any member to order whenever in the presiding person's opinion, there is cause to do so.
- (2) Any member who acts in breach of this clause may be ruled by the presiding person to be out of order.
- (3) Where a member persists in any conduct which the presiding person deems is out of order, or refuses to make any explanation, retraction or apology required by the presiding person, then the presiding person may direct the member to refrain from taking any further part in that meeting, other than by recording the member's vote and the member must comply with that direction.

45. Preservation of order – members of the public

- (1) Any member of the public addressing the Council or a committee is to extend due courtesy and respect to the Council or committee and the processes under which they operate and must take direction from the presiding person whenever called upon to do so.
- (2) A person who fails to comply with a direction given by the presiding person under subclause (1) commits an offence.

Maximum penalty: \$1,000

- (3) No person observing a meeting, is to create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person who acts contrary to subclause (3) commits an offence.

Maximum penalty: \$1,000

- (5) Where a person is considered by the presiding person or the Council to be in breach of sub clauses (1) or (3) the presiding person or the Council may direct the offending person to leave the meeting room and the person must immediately comply with that direction.
- (6) A person failing to comply with a direction given under sub-clauses (1) or (5) may, by order of the presiding person, be removed by the police from the meeting room.

46. Serious disorder

- (1) If the presiding person is of the opinion that by reason of serious disorder or otherwise, the business of the meeting cannot effectively be continued, the presiding person may adjourn the meeting for a period of not less than 5 minutes but no more than 15 minutes.

- (2) If, having once adjourned the meeting, the presiding person is again of the opinion that the business of the meeting cannot effectively be continued the meeting may be adjourned to another date.

PART 5 – MOTIONS AND AMENDMENTS

47. Recommendations in reports

- (1) Where a motion, if carried, would be significantly different from the relevant written recommendation of a committee or an employee (but not a motion to only note the matter or to return the recommendation for further consideration), the motion shall include the reasons for the motion.
- (2) The requirements for recording in the minutes of a meeting, written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee are dealt with in the Regulations.

Footnote:
Regulation 11(da) of the Regulations provides:

11. The content of minutes of a council or committee meetings (Admin. Reg.)

(da) written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration);

- (3) A recommendation made by or contained in a report may:
 - (a) but need not be, moved;
 - (b) be adopted by the Council without amendment or modification;
 - (c) be rejected by the Council in its entirety;
 - (d) be amended or modified and adopted with those amendments or modifications; or
 - (e) be referred back for further consideration.
- (4) Where in the opinion of the presiding person, an amendment or modification of a recommendation alters the substance or effect of the recommendation, a new motion is to be put forward prefaced by the words, "I move that the recommendation be rejected and that.....".

48. Adoption of recommendations en bloc

A member may move a motion to adopt by one resolution, all the recommendations or a group of recommendations from a committee or several reports, without amendment or qualification after having first identified those recommendations, if any:

- (a) which require adoption by absolute or special majority vote,
- (b) in respect of which there is a disclosure of interest; and
- (c) which any member has indicated the member wishes to debate,

and, each of those recommendations referred to in paragraphs (a), (b) and (c) shall be considered separately.

49. Motions

- (1) A member proposing a primary motion or amendment must state its substance before addressing the meeting and if so required by the presiding person must put the motion or amendment in writing.
- (2) The presiding person or the meeting by resolution, may require a complicated motion to be divided into 2 or more motions.

50. No opposition to motions

- (1) On a motion being moved and seconded, the presiding person may then ask the meeting if any member opposes it.
- (2) If no member signifies opposition to the motion the presiding person may then take the vote without debate.
- (3) If a member signifies opposition to a motion, the motion shall be dealt with according to this local law.

51. Motions to be seconded

- (1) Subject to subclause (2) a motion or amendment is not to be discussed or put to the vote unless seconded.
- (2) A nomination to any position is not required to be seconded.
- (3) A member seconding a motion is to be taken to have reserved the right to speak on the motion later in the debate.

52. Withdrawing motions

A motion or amendment may be withdrawn by the mover, with the consent of the Council, and no member is to speak on it after it has been withdrawn.

53. One motion at a time

Only one motion is to be debated at any one time.

54. Limitation on members speaking

- (1) Only the mover of a motion or an amendment may speak twice on the same motion or the same amendment.
- (2) The mover of a motion or an amendment:
 - (a) is to speak to that motion or amendment first, after it has been seconded; and

- (b) has the right of reply and in exercising that right is to confine the reply to previous speakers' comments and not introduce any new matters.
- (3) A member must not speak on any motion or an amendment after the mover has replied.
- (4) A member may only speak on a motion or an amendment, or reply, for a period of 5 minutes, unless an extension of time is granted by the Council by simple majority without debate, but shall not exceed a total time to exceed 10 minutes in total.
- (5) The Council may suspend the operation of this clause during debate on a motion.

55. Questions during debate

- (1) Subject to clause 54(3) (Limitation on members speaking) a member may ask a question at any time during the debate on a motion or an amendment before the mover of the motion or amendment has replied.
- (2) Subject to subclause (3) a member who asks one or more questions will not be taken to have spoken on the matter.
- (3) Where the presiding person considers a question asked is not succinct and to the point, but is prefaced by comment or other information, the presiding person may rule that the member has spoken on the matter and, in that event, the member must not speak again on the matter.

56. Amendments

- (1) A member may move an amendment to a primary motion, at any time during debate on the motion, except:
 - (a) when the mover has been called by the presiding person to exercise the right of reply; or
 - (b) during debate on a procedural motion.
- (2) Every amendment is to be relevant and not negate the motion in respect of which it is moved.
- (3) An amendment to a motion is to take only one of the following forms:
 - (a) that certain words be omitted;
 - (b) that certain words be omitted and others substituted or added; or
 - (c) that certain words be added.
- (4) (a) Only one amendment is to be discussed at a time, but as often as an amendment is lost, another amendment may be moved before the primary motion is put to the vote.

- (b) Where an amendment is carried, one further successful amendment to the primary motion, as amended, and no more, may be carried.
- (5) Where an amendment is carried, the primary motion as amended is, for all purposes of subsequent debate and subject only to subclause (4), to be treated as a primary motion.

PART 6 – REVOCATION MOTIONS

57. Revocation motions

- (1) The requirements for support of a motion for revocation or change of a Council decision are dealt with in the Act and Regulations.

Footnote:

Section 5.25(1)(e) of the Act and regulation 10 of the Regulations provide:

Regulations about council and committee meetings (Act)

- 5.25 (1) *Without limiting the generality of section 9.59, regulations may make provision in relation to - (e) the circumstances and manner in which a decision made at a council or a committee meeting may be revoked or changed (which may differ from the manner in which the decision was made);*

Revoking or changing decisions made at council or committee meetings (Admin. Reg.)

10. (1) *If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —*
- (a) *in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or*
- (b) *in any other case, by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee,*
- inclusive of the mover.*
- (1a) *Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.*
- (2) *If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —*
- (a) *in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or*
- (b) *in any other case, by an absolute majority.*
- (3) *This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.*

- (2) In this clause:

- (a) **“relevant meeting”**, where used in relation to a revocation motion, means:

- (i) the ordinary or special meeting specified in the notice of the revocation motion; or
- (ii) if that meeting is adjourned before the motion is announced by the presiding person, then at the resumption of the adjourned meeting; or
- (iii) if that meeting is closed before the motion is announced by the presiding person, then at the next ordinary meeting or a special meeting convened to consider those matters not considered prior to the closure of the meeting; or
- (iv) if the motion is deferred by the council to another meeting of the council, then at that other meeting,

as the case may be;

- (b) **“revocation motion”** means a motion to revoke or change a decision made at a council or committee meeting.
- (3) This clause does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.
- (4) A member wishing to move a revocation motion at a meeting of the council or a committee must give to the CEO notice of the revocation motion, which is to:
- (a) be in writing;
 - (b) specify the decision proposed to be revoked or changed;
 - (c) include a reason or reasons for the revocation motion;
 - (d) be signed by the number of members required by law to support the motion to revoke or change the decision referred to in the revocation motion;
 - (e) specify the date of the ordinary or special meeting of the council or the committee, as the case may be, which next follows the expiry of 7 clear days after the notice is given to the CEO;
 - (f) be given to the CEO not less than 7 clear days prior to the date of the ordinary or special meeting specified in the notice.
- (5) (a) If, at the relevant meeting, the member who gave the notice of the revocation motion, is present, then the presiding person is to call on that member to move the revocation motion.
- (b) If that member is not present or, being present, does not move the revocation motion when called upon to do so by the presiding person, then notwithstanding clause 26 any member of the Council may move the revocation motion.

- (6) Where notice of a revocation motion is given in accordance with the requirements of this clause, then the CEO must not implement or continue to implement, the decision the subject of the revocation motion until:
- (a) the revocation motion is not supported by the number of members of the council required by law to support the motion;
 - (b) no member of the council moves the revocation motion;
 - (c) the motion is moved but not seconded; or
 - (d) the motion is moved and seconded but is not made by the kind of majority required by law,
- at the relevant meeting.
- (7) A notice of revocation motion given in accordance with the requirements of this clause is to lapse when:
- (a) the revocation motion is not supported by the number of members of the council required by law to support the motion;
 - (b) no member of the council moves the revocation motion;
 - (c) the motion is moved but not seconded; or
 - (d) the motion is moved and seconded but is not made by the kind of majority required by law,
- at the relevant meeting.
- (8) Subclauses (1), (2), (3), (4), (5) and (6) of clause 26 do not apply where the motion is a revocation motion.
- (9) For the avoidance of doubt subclauses (7), (8) and (9) of clause 26 are to apply where the motion is a revocation motion.
- (10) A motion that a revocation motion be deferred shall only be carried by the decision of an absolute majority.

PART 7 – PROCEDURAL MOTIONS**58. Permissible procedural motions**

In addition to proposing a properly worded amendment to a primary motion, a member may, at the conclusion of a speech of any other member or on the conclusion of any business, move any of the following procedural motions without notice, and if seconded, the procedural motion is to be dealt with immediately:

- (a) that the motion be deferred;
- (b) that the meeting do now adjourn;
- (c) that the debate be adjourned;
- (d) that the motion be now put;
- (e) that the meeting be now closed;
- (f) that the Council sit behind closed doors;
- (g) that the ruling by the presiding person be disagreed with.

59. No debate on procedural motions

- (1) The mover of a motion referred to in each of paragraphs (a), (b), (c), (e), (f), and (g) of clause 58 may speak to the motion for not more than 5 minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
- (2) The mover of a motion referred to in paragraph (d) of clause 58 shall not speak to the motion, the seconder shall not speak other than to formally second the motion, and there is to be no debate on the motion.

60. Procedural motions – closing debate – who may move

- (1) No person who has moved, seconded, or spoken for or against the primary motion, or any amendment may move any procedural motion which, if carried, would close the debate on the primary motion or amendment.
- (2) At the same meeting, a member shall not move more than one procedural motion, except a motion referred to in paragraph (a), (f) or (g) of clause 58.

61. Procedural motions – right of reply on primary motion

The carrying of a procedural motion, which closes debate on the primary motion or amendment and forces a decision on the primary motion or amendment does not deny the right of reply to the mover of the primary motion or amendment.

62. The motion be deferred – effect of motion

- (1) If a motion “that the motion be deferred”, is carried, then all debate on the primary motion and any amendment is to cease and the motion or amendment is to be resubmitted for consideration at a time and date specified in the motion.
- (2) A motion that the motion be deferred shall not be moved in respect of the election of a presiding person or the mayor.

63. The meeting do now adjourn – effect of motion

- (1) If a motion “that the meeting do now adjourn”, is carried then the meeting is to stand adjourned to a time and date specified in the motion, or where no time and date is specified, to such time and date as the presiding person shall declare.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1):
 - (a) the debate is to be resumed at the date and time specified as required in subclause (1) and at the point where it was so interrupted; and
 - (b) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
 - (c) the provisions of clause 54 apply when the debate is resumed.

64. The debate be adjourned – effect of motion

- (1) If a motion “that the debate be adjourned”, is carried then all debate on the primary motion or amendment is to cease and is to continue at a time and date specified in the motion.
- (2) If the motion is carried at a meeting of the Council:
 - (a) the names of members who have spoken on the matter are to be recorded in the minutes; and
 - (b) the provisions of clause 54 apply when the debate is resumed.
- (3) A motion that the debate be adjourned shall not be moved in respect of the election of a presiding person or the deputy mayor.

65. The motion be now put – effect of motion

- (1) If a motion “that the motion be now put”, is carried during discussion of a primary motion or amendment then the presiding person is to immediately put the matter under consideration without further debate (subject to clause 61).
- (2) If the motion is lost then debate is to continue.

66. Meeting be now closed – effect of motion

- (1) If a motion “that the meeting be now closed”, is carried, then:
 - (a) the presiding person is to forthwith close the meeting, and no further business may be transacted; and
 - (b) any business outstanding on the agenda for that meeting shall be carried forward to the agenda for the next ordinary meeting of the Council.
- (2) If the motion is carried at a meeting of the Council:
 - (a) the names of members who have spoken on the matter are to be recorded in the minutes; and
 - (b) the provisions of clause 54 apply when the outstanding business is resumed.

67. Council sit behind closed doors – effect of motion

- (1) The requirements for meetings to be open to the public and the reason that meetings may be closed are dealt with in the Act.

Meetings generally open to the public (Act)

5.23 (1) *Subject to subsection (2), the following are to be open to members of the public:*

- (a) *all council meetings; and*
 - (b) *all meetings of any committee to which a local government power or duty has been delegated.*
- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following:*
- (a) *a matter affecting an employee or employees;*
 - (b) *the personal affairs of any person;*
 - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
 - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
 - (e) *a matter that if disclosed, would reveal;*
 - (i) *a trade secret;*
 - (ii) *information that has a commercial value to a person; or*

- (iii) *information about the business, professional, commercial or financial affairs of a person,*

where the trade secret or information is held by, or is about, a person other than the local government;

- (f) *a matter that if disclosed, could be reasonably expected to:*

- (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;*

- (ii) *endanger the security of the local government's property; or*

- (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*

- (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*

- (h) *such other matters as may be prescribed.*

- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

- (2) Notwithstanding clause 58, a member may move at anytime during a meeting, that the meeting sit behind closed doors.
- (3) If a motion “that the Council sit behind closed doors”, is carried then the presiding person is to direct all persons, other than members, employees and other persons, as specified in the motion, to leave the meeting room and every person must immediately comply with that direction.
- (4) Subject to subclause (3), the meeting is to be closed to the public until the Council resolves to open the meeting to members of the public.
- (5) Upon the public again being admitted to the meeting the presiding person is to cause the motions passed by the Council whilst it was proceeding behind closed doors to be read out including the details of any voting recorded.
- (6) A person who is a Council member, a committee member, or an officer or employee is not to publish, or make public any of the discussion which takes place on a matter discussed behind closed doors, but this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes.
- (7) A person failing to comply with a direction made under subclause (3) may, by order of the presiding person, be removed by the police from the meeting room.

68. Ruling by the presiding person be disagreed with – effect of motion

If a motion “that the ruling by the presiding person be disagreed”, is carried then the ruling of the presiding person about which this motion was moved, is to have no effect and the meeting is to proceed accordingly.

PART 8 - COMMITTEES

69. Appointment, types and membership of committees

The appointment, types and membership of committees is dealt with in the Act.

Footnote:

Sections 5.8 to 5.11 of the Act provide:

Establishment of committees (Act)

5.8 *A local government may establish* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.*

** Absolute majority required.*

Types of committees

5.9 (1) *In this section:*

“other person” means a person who is not a council member or an employee.

(2) *A committee is to comprise:*

- (a) council members only;*
- (b) council members and employees;*
- (c) council members, employees and other persons;*
- (d) council members and other persons;*
- (e) employees and other persons; or*
- (f) other persons only.*

Appointment of committee members

5.10 (1) *A committee is to have as its members:*

- (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and*
- (b) persons who are appointed to be members of the committee under subsection (4) or (5).*

** Absolute majority required.*

(2) *At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.*

(3) *Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power*

exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.

- (4) *If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.*
- (5) *If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish:*

(a) to be a member of the committee; or

(b) that a representative of the CEO be a member of the committee,

the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

Tenure of committee membership

- 5.11 (1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until:*

(a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be;

(b) the person resigns from membership of the committee;

(c) the committee is disbanded; or

(d) the next ordinary elections day,

whichever happens first.

- (2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until:*

(a) the term of the person's appointment as a committee member expires;

(b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;

(c) the committee is disbanded; or

(d) the next ordinary elections day,

whichever happens first.

70. Election of committee presiding person and deputy presiding person

The election of the presiding person and deputy presiding person of committees is dealt with in the Act.

Footnote:

Sections 5.12 to 5.15 of the Act provide:

Election of presiding members and deputies (Act)

5.12 (1) *The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule:*

- (a) *to “office” were references to “office of presiding member”*
- (b) *to “council” were references to “committee”*
- (c) *to “councillors” were references to “committee members”.*

(2) *The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule:*

- (a) *to “office” were references to “office of deputy presiding member”*
- (b) *to “council” were references to “committee”*
- (c) *to “councillors” were references to “committee members”*
- (d) *to “mayor or president” were references to “presiding member”.*

Functions of deputy presiding members

Who acts if no presiding member

5.14 *If, in relation to the presiding member of a committee:*

- (a) *the office of presiding member and the office of deputy presiding member are vacant; or*
- (b) *the presiding member and the deputy presiding member, if any, are not available or are unable or unwilling to perform the functions of presiding member,*

then the committee members present at the meeting are to choose one of themselves to preside at the meeting.

Reduction of quorum for committees

5.15 *The local government may reduce* the number of offices of committee member required for a quorum at a committee meeting specified by the local government if there would not otherwise be a quorum for the meeting.*

** Absolute majority required.*

71. Delegation of some powers and duties to committees

- (1) The delegation of certain powers and duties to committees is dealt with in the Act.

Footnote:

Sections 5.16 to 5.18 of the Act provide:

Delegation of some powers and duties to certain committees (Act)

5.16 (1) *Under and subject to section 5.17, a local government may delegate* to a committee any of its powers and duties other than this power of delegation.*

** Absolute majority required.*

- (2) *A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.*
- (3) *Without limiting the application of sections 58 and 59 of the Interpretation Act 1984 –*
- (a) *a delegation made under this section has effect for the period of time specified in the delegation or if no period has been specified, indefinitely; and*
- (b) *any decision to amend or revoke a delegation under this section is to be by an absolute majority.*
- (4) *Nothing in this section is to be read as preventing a local government from performing any of its functions by acting through another person.*

Limits on delegation of powers and duties to certain committees

5.17 (1) *A local government can delegate –*

- (a) *to a committee comprising council members only, any of the council's powers or duties under this Act except –*
- (i) *any power or duty that requires a decision of an absolute majority or a 75% majority of the local government; and*
- (ii) *any other power or duty that is prescribed;*
- (b) *to a committee comprising council members and employees, any of the local government's powers or duties that can be delegated to the CEO under Division 4; and*
- (c) *to a committee referred to in section 5.9(2)(c), (d) or (e), any of the local government's powers or duties that are necessary or convenient for the proper management of –*
- (i) *the local government's property; or*

(ii) *an event in which the local government is involved.*

(2) *A local government cannot delegate any of its powers or duties to a committee referred to in section 5.9(2)(f).*

Register of delegations to committees

5.18 *A local government is to keep a register of the delegations made under this Division and review the delegations at least once every financial year.*

(2) The powers and duties of any committee are to be as determined by the Council on appointment of the committee and as otherwise considered necessary.

72. Calling of committee meetings

The CEO is to convene a meeting of a committee when requested by:

- (a) the presiding person of the committee, in writing;
- (b) a minimum of $\frac{1}{3}$ of the members of the committee, but not less than 2 members of the committee, in writing;
- (c) the committee; or
- (d) the Council.

73. Elected member only committees

The presiding person of a committee comprising only members is to allow any member who is not a member of that committee to address the committee and to participate in the discussion of any item as requested by that member.

74. Elected member attending committee as observer

- (1) A member may attend any meeting of a committee as an observer, notwithstanding that the member is not a member of that committee.
- (2) A member attending a committee meeting as an observer, may speak but is not to vote on any motion before the committee.
- (3) Subject to the subclauses (1) and (2), an elected member attending a committee as an observer is to sit in the area set aside for observers separated from the committee members.

75. Disclosure by members who are observers at committee meetings

The requirements for disclosure of financial and impartiality interest are dealt with in the Act.

Footnote:

Sections 5.60 to 5.70 of the Act dealing with disclosure of interest are set out in the footnote to clause 19.

Footnote:

Regulation 34C of the Regulations and the City of Joondalup Code of Conduct dealing with disclosure of interest affecting impartiality are set out in the footnote to clause 19.

76. Meetings closed to the public

All meetings of committees not required to be opened to the public under the Act are to be closed to the public unless the Council decides otherwise.

77. Standing orders apply to committee meetings

Unless otherwise provided in this local law, the provisions of this local law shall apply to meetings of committees with the exception of:

- (a) clause 29 (Members seating;) and
- (b) clause 54 (Limitation on members speaking.)

PART 9 - MISCELLANEOUS

78. Representation on public bodies

When the Council is required to appoint or nominate a member/person to a public body, written notice of the vacancy or need for the appointment or nomination is to be given to all members and the Council is by resolution to determine the appointment or nomination.

79. Improper use of information

The improper use of information is dealt with in the Act.

Footnote:

Section 5.93 of the Act provides:

Improper use of information (Act)

5.93 A person who is a council member, a committee member or an employee must not make improper use of any information acquired in the performance by the person of any of his or her functions under this Act or any other written law –

- (a) to gain directly or indirectly an advantage for the person or any other person; or*
- (b) to cause detriment to the local government or any other person.*

Penalty: \$10 000 or imprisonment for 2 years.

80. Meetings of electors

The requirements for meetings of the electors are dealt with the Act and the Regulations.

Footnote:

Sections 5.26 to 5.33 of the Act and regulations 15 to 18 of the Regulations provide:

Definition (Act)

5.26 In this Subdivision, “electors” includes ratepayers.

Electors’ general meetings

- 5.27 (1) A general meeting of the electors of a district is to be held once every financial year.*
- (2) A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- (3) The matters to be discussed at general electors' meetings are to be those prescribed.*

Electors' special meetings

- 5.28 (1) *A special meeting of the electors of a district is to be held on the request of not less than:*
- (a) *100 electors or 5% of the number of electors, whichever is the lesser number; or*
 - (b) *$\frac{1}{3}$ of the number of council members.*
- (2) *The request is to specify the matters to be discussed at the meeting and the form or content of the request is to be in accordance with regulations.*
- (3) *The request is to be sent to the mayor or president.*
- (4) *A special meeting is to be held on a day selected by the mayor or president but not more than 35 days after the day on which he or she received the request.*

Convening electors' meetings

- 5.29 (1) *The CEO is to convene an electors' meeting by giving:*
- (a) *at least 14 days' local public notice; and*
 - (b) *each council member at least 14 days' notice,*
- of the date, time, place and purpose of the meeting.*
- (2) *The local public notice referred to in subsection (1)(a) is to be treated as having commenced at the time of publication of the notice under section 1.7(1)(a) and is to continue by way of exhibition under section 1.7(1)(b) and (c) until the meeting has been held.*

Who presides at electors' meetings

- 5.30 (1) *The mayor or president is to preside at electors' meetings.*
- (2) *If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at an electors' meeting in accordance with that section.*
- (3) *If the circumstances mentioned in section 5.34(a) or (b) apply and;*
- (a) *the office of deputy mayor or deputy president is vacant; or*
 - (b) *the deputy mayor or deputy president is not available or is unable or unwilling to perform the functions of mayor or president,*
- then the electors present are to choose one of the councillors present to preside at the meeting but if there is no councillor present, able and willing to preside, then the electors present are to choose one of themselves to preside.*

Procedure for electors' meetings

- 5.31 *The procedure to be followed at, and in respect of, electors' meetings and the methods of voting at electors' meetings are to be in accordance with regulations.*

Minutes of electors' meetings

- 5.32 *The CEO is to:*

- (a) *cause minutes of the proceedings at an electors' meeting to be kept and preserved; and*
- (b) *ensure that copies of the minutes are made available for inspection by members of the public before the council meeting at which decisions made at the electors' meeting are first considered.*

Decisions made at electors' meetings

- 5.33 (1) *All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable:*
- (a) *at the first ordinary council meeting after that meeting; or*
 - (b) *at a special meeting called for that purpose,*
- whichever happens first.*
- (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*

Matters for discussion at general electors meetings (Admin. Reg.)

15. *For the purposes of section 5.27(3), the matters to be discussed at a general electors' meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.*

Requests for electors' special meetings

16. *A request for a special meeting of the electors of a district is to be in the form of Form 1.*

Voting at electors' meetings

17. (1) *Each elector who is present at a general or special meeting of electors is entitled to one vote on each matter to be decided at the meeting but does not have to vote.*
- (2) *All decisions at a general or special meeting of electors are to be made by a simple majority of votes.*
- (3) *Voting at a general or special meeting of electors is to be conducted so that no voter's vote is secret.*

Procedures at electors' meetings

18. *Subject to regulations 15 and 17, the procedure to be followed at a general or special meeting of electors is to be determined by the person presiding at the meeting.*

81. Cases not provided for in the standing orders

Where there is no provision or insufficient provision is made in this local law, the presiding person shall determine the procedure to be observed.

Footnote:

Section 3.7 of the Act provides:

Inconsistency with written laws (Act)

- 3.7 *A local law made under this Act is inoperative to the extent that it is inconsistent with this Act or any other written law.*

82. Enforcement

The right to prosecute for any offence committed under this local law is dealt with in the Act.

Footnote:

Section 9.24 of the Act provides:

Commencing prosecutions (Act)

- 9.24 (1) *A prosecution for an offence against this Act may be commenced by –*
- (a) the Departmental CEO or a person authorised by the Departmental CEO to do so;*
 - (b) a person who is acting in the course of his or her duties as an employee of a local government or a regional local government; or*
 - (c) a person who is authorised to do so by a local government or a regional local government.*
- (2) *A prosecution for an offence against a local law may be commenced by –*
- (a) a person who is acting in the course of his or her duties as an employee of the local government or regional local government that made the local law; or*
 - (b) a person who is authorised to do so by the local government or regional local government that made the local law.*

SCHEDULE**PETITION OF ELECTORS OF THE CITY OF JOONDALUP**

To the Mayor and Councillors of the City of Joondalup

We, the undersigned, all being electors of the City of Joondalup do respectfully request that the Council:

(Here set out a concise statement of facts and the action sought)

Correspondence in respect of this petition should be addressed to:

The names and addresses of your petitioners are as follows

DATE	FULL NAME	ADDRESS	AGREE/DISAGREE/ NO OPINION	SIGNATURE
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Note: Petitioners may contact CEO of the City of Joondalup if they wish to withdraw from this petition or change their comment.

Standing Orders Local Law2004 - basic footnotes