

Attachment 5.1.3

Response to Questions Taken on Notice at the September Council Meeting from Mr G Defrenne October Agenda Item 5.1.3 refers

Response to Questions 5,6,& 7

The table below outlines the positions advertised since July 2005, when they were advertised and when they were filled.

Position	Advertised Date	Start Date	Notes
Manager Library and Heritage Services	30-Jul-05		Re-advertised
Manager, Library & Heritage Services	31-Dec-05	3/04/2006	
Planning Officer	13-Aug-05	12/09/2005	
Operations Engineer	20-Aug-05		Re-advertised
Operations Engineer	26-Nov-05		Re-advertised
Operations Engineer	25-Mar-06		
Parks Maintainer (2)	20-Aug-05	13/01/2006	1 position filled 1 position vacant re-advertised
Parks Maintainer	26-Nov-05	8/03/2006	
Plant Operator Mowing	20-Aug-05	4/10/2005	
Streetscapes Maintainer	20-Aug-05		Re-advertised
Streetscapes Maintainer	25-Mar-06	12/06/2006	
Travelsmart Roadwise Officer	3-Sep-05	12/09/2005	
Customer Service Officer - Part Time Job Share	10-Sep-05		Re-advertised
Customer Service Officer	28-Oct-05	4/01/2006	
Accountant	24-Sep-05		No Suitable applicants Not re advertised
Community Arts and Events Officer	1-Oct-05	12/12/2005	
City Environment Coordinator	8-Oct-05	19/01/2006	
Environmental Officer - Part Time	8-Oct-05	14/02/2006	No Suitable applicants Filled later by unsolicited application
Building Surveyor	8-Oct-05	10/07/2006	No Suitable applicants Filled later by temp
City Landscapes Officer	8-Oct-05		Re-advertised

City Landscapes Officer	11-Feb-06	1/05/2006	
City Sustainability Officer	8-Oct-05	31/01/2006	
Grants and Consultation Officer	22-Oct-05		Re-advertised
Grants and Consultation Officer	26-Nov-05	8/02/2006	
Plant Operator Mowing	26-Nov-05		No Suitable applicant
Plant Operator Mowing	25-Mar-06	15/05/2006	
Community Development Coordinator	26-Nov-05	16/01/2006	
Environmental Health Officer	7-Jan-06	20/02/2006	
Administration - CSO - Building	11-Feb-06	10/04/2006	
Civic Events and Function Officer	11-Feb-06		Re-advertised
Civic Functions and Ceremonies Officer	13-May-06	31/07/2006	
Golf Course Maintenance Officer (2)	11-Feb-06	15/05/2006	1 position filled 1 position vacant re-advertised
Golf Course Grounds Person (4)	23-Sep-06	25/09/2006	
			Still in the selection process
			Still in the selection process
			Still in the selection process
Group Leader Parks SJMP	25-Mar-06	12/06/2006	
Leading Hand Natural Areas Maintenance	25-Mar-06	12/06/2006	
Administration Officer	8-Apr-06	6/06/2006	
Employee Relations Advisor	29-Apr-06	12/06/2006	
Health Services Operator	29-Apr-06	12/06/2006	
Branch Librarian (2)	6-May-06	3/07/2006	
		10/07/2006	
Planning Officer (2)	6-May-06	17/07/2006	
		14/08/2006	
Safety Advisor	6-May-06	26/06/2006	
Customer Liaison Officer	10-Jun-06	4/07/2006	
Planning Officer	24-Jun-06		Preferred candidate declined, re-advertised
Planning Officer	20-Oct-06		Still in the selection process
Accounts Payable Officer	8-Jul-06	7/09/2006	
Customer Service Officer - Part Time	8-Jul-06	4/09/2006	

Engineering Technical Officer	15-Jul-06		Still in the selection process
Plant Operator Mowing (2)	29-Jul-06	3/10/2006	1 position filled 1 position vacant re-advertised
Plant Operator Mowing	23-Sep-06		Still in the selection process
Group Leader Parks Maintenance	12-Sept-06		Still in the selection process
Parks Maintainer Level 4	29-Aug-06	18/09/2006	
Youth Services Librarian	2-Sep-06		Re-advertised
Youth Services Coordinator	23-Sep-06		Still in the selection process
Manager Information Services	9-Sep-06		Still in the selection process
HR Officer	23-Sep-06		Still in the selection process
Library Officer - Part Time	23-Sep-06		Still in the selection process
Building Maintenance Tradesperson	23-Sep-06		Still in the selection process
Accounts Payable Officer	20-Oct-06		Still in the selection process



NOTES

September Council Agenda Briefing
Held in the Council Chamber
Tuesday 19 September 2006
Commencing at 5.30pm

Present:

Mayor, J Collins, JP (Chairman)

Councillors:

G W Gleeson	Civic Ward
B W Hearne	Como Beach Ward
L M Macpherson	Como Beach Ward (from 5.45pm)
L J Jamieson	Manning Ward
L P Ozsdolay	Manning Ward
C A Cala	McDougall Ward
R Wells, JP	McDougall Ward
R B Maddaford	Mill Point Ward
D S Smith	Mill Point Ward
K R Trent, RFD	Moresby Ward (from 7.15pm)

Officers:

Mr C Frewing	Chief Executive Officer
Mr S Cope	Director Strategic and Regulatory Services
Mr M Kent	Director Financial and Information Services
Mr C Buttle	Acting Manager Development Services
Ms D Gray	Manager Financial Services
Mr N Kegie	Manager Community, Culture and Recreation (until 6.20pm)
Mr M Taylor	Manager City Environment (until 7.00pm)
Mr S McLaughlin	Legal and Governance Officer
Mr Regan Barry	Technology and Telecommunications Co-ordinator (until 6.45pm)
Ms E Burns	Property and Insurance Officer (until 6.45pm)
Mrs K Russell	Minute Secretary

Gallery

16 members of the public were present and one member of the press

Apologies

Cr S Doherty	Moresby Ward - leave of absence
Cr K R Trent, RFD	Moresby Ward - anticipated late arrival

OPENING

The Mayor opened the Agenda Briefing at 5.30pm, welcomed everyone in attendance to the new and very 'different' Council Chamber and in particular the family of newly elected Member James Best. He said that the freshness of the new facility gives Council the opportunity to take that 'freshness' to our vision and strategic planning for the future and that we also do that by swearing in our new Councillor James Best. The Mayor then reminded the public present that they were not permitted to ask questions or interject in the proceedings as Agenda Briefings were not part of the decision-making process but an opportunity for Members to raise questions on Items presented in order to make informed decisions at the Council meeting.

SWEARING IN OF COUNCILLOR - CIVIC WARD

The Mayor referred to the recent extra-ordinary election for the Civic Ward and reported that of the four candidates that James Best was the resounding winner with 725 votes.

The Mayor then advised those present that in line with recent changes to the *Local Government Act* that Elected Members were only required to make a Declaration to be signed by Mayor as JP.

The Mayor swore in Elected Member James Best. Councillor Best read aloud the Declaration, following which he took his place at the Council meeting table. The Mayor then asked Councillor Best to respond. Councillor Best said it was a great privilege to join the Council in its newly refurbished Council Chamber. He said he believed it would be hard work to keep rate payers informed and involved as part of the community but that he was looking forward to the challenge.

RATES DRAW

The Chief Executive Officer advised that the 'Rates Draw' would be conducted in this forum rather than taking up time at a full Council meeting. He then asked the Director Financial and Information Services to conduct the draw. Mr Kent advised that when the rates period ended 9295 ratepayers had paid in full on or before the due date and they are therefore eligible to be entered in the draw for one of the nine prizes donated by local businesses. He stated that those ratepayers selected will then be invited to attend a function to receive their prize.

At this point the Director Financial and Information Services asked the Mayor to officiate. The Mayor requested members of the public present to commence the proceedings by providing nine numbers between 1 and 9295 (being the number of the rates paid in full by the due date). The random numbers provided were then entered into a randomly sorted database and the prize winners identified.

Note: The Technology and Telecommunications Co-ordinator and Property and Insurance Officer retired from the meeting at 6.45pm.

ITEMS THE SUBJECT OF THE AGENDA BRIEFING

The Chief Executive Officer then commenced the presentation and gave a brief summary of each of the following reports on the September 2006 Council Agenda. Questions and points of clarification were raised by Members and responded to by the officers.

Note: Cr Macpherson arrived at 5.45pm

9.0.1 Sewerage Disposal Options for Sir James Mitchell Park

This report considers the progress of the Working Group investigating available options for the containment and disposal of sewage from large events staged on Sir James Mitchell Park.

9.0.2 Canning Mews SAT Appeal Outcomes

The purpose of the report is to request deferral of a report required to be submitted to the September meeting in response to a Council Resolution.

9.0.3 Community Partnerships

This report presents the Partnership Agreement with *Millennium Kids* for Council consideration.

9.2.1 Support for Junior Sport

The purpose of this report is to consider ways that the City can further support Junior Sports activity in the City of South Perth.

9.2.2 Perth International Arts Festival Closing Event

This report considers a request from the Perth International Arts Festival to use Sir James Mitchell Park for its closing event.

Note: The Manager Community, Culture and Recreation retired at 6.20pm.

9.2.3 Red Bull Air Race 2006

A written request has been received from Events Corp for Council to reconsider three conditions of their Council approval in relation to using Sir James Mitchell Park during the Red Bull Air Race in November 2006.

9.3.1 Additions/Alterations - Wesley College

This application involves substantial upgrading and expansion of an existing building in the centre of the Wesley College campus.

9.3.2 Community Radio Station - Murray Street cnr McNabb Loop, Como

This report seeks approval for a 'Community Radio Station' (Sonshine 98.5FM) which is a "Use not Listed".

9.3.3 Upgrading of Telephone Booths with Signage Panels

This application seeks approval for the placement of commercial advertising on 9 telephone booths situated throughout the City.

9.3.4 Amphibious Tours

An application has been referred to the City by the Swan River Trust to conduct amphibious tours on the Swan River, utilising the Coode Street boat ramp as the entry and exit point.

9.5.1 Annual Financial Interests Returns

In line with Policy **P523** this report deals with the lodgement of Annual Returns.

9.5.2 Annual Report

The purpose of this report is to present the Annual Report for adoption.

Note: Manager City Environment retired at 7.00pm

9.5.3 Audit Assignment - Catering Tender Collier Park Village Hostel

The purpose of this report is to appoint a contractor to carry an audit on the Catering Tender for the Collier Park Village Hostel.

9.6.1 Monthly Financial Management Accounts

This report presents summaries compiled according to the major functional classifications compare actual performance against budget expectations.

9.6.2 Monthly Statement of Funds, Investments and Debtors

This report presents a statement summarising the effectiveness of treasury management for the month.

9.6.3 Warrant of Payments

This report presents a list of accounts paid by the CEO under delegated authority for August.

Note: Cr Trent arrived at 7.15pm

COUNCIL FACILITIES - CONGRATULATIONS

Cr Gleeson, extended congratulations to Michael Kent, Director Financial and Information Services for doing a fantastic job in project managing the extensive renovations to the Administration, Council Chamber and associated facilities which he said resulted in a very impressive outcome. Council Members endorsed Cr Gleeson's comments.

CLOSURE

The Mayor closed the Agenda Briefing at 7.20pm



NOTES

CONCEPT FORUM

- Civic Triangle Update
 - Fringe Benefits Tax
- Held in the Council Chamber, Sandgate Street
Tuesday 3 October 2006 commencing at 5.30pm**

Present:

Mayor J Collins, JP

B W Hearne	Como Beach Ward
L M Macpherson	Como Beach Ward
L P Ozsdolay	Manning Ward
C A Cala	McDougall Ward
R Wells, JP	McDougall Ward
R B Maddaford	Mill Point Ward
D S Smith	Mill Point Ward
Cr K R Trent, RFD	Moresby Ward

Officers:

Mr C Frewing	Chief Executive Officer
Mr M Kent	Director Financial and Information Services
Mr L Croxford	Acting Director Infrastructure Services
Mr S Cope	Director Strategic and Regulatory Services
Ms D Gray	Manager Financial Services

Consultant:

Mr John Syme	Syme Marmion & Co
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Apologies:

Cr S Doherty	Moresby Ward - leave of absence
Cr L J Jamieson	Manning Ward
Cr G W Gleeson	Civic Ward
Cr J Best	Civic Ward

OPENING

The Mayor opened the Concept Forum at 5.30pm and welcomed everyone in attendance.

1. Civic Triangle Update

The Chief Executive Officer introduced the topic before handing over to the Director Strategic and Regulatory Services. The Director Strategic and Regulatory Services and John Syme of Syme Marmion and Company jointly presented an update on the Civic Triangle covering the following topics:

- Outline of issues raised at Concept Forum held on 12/9/06
- Significance of the proposed South Perth railway station
- Network City's Communities Program - South Perth railway station study process
- South Perth railway station precinct study - interim feedback
- Review of the Town Planning Scheme
- Outcomes of Civic Triangle Study 2004
- Objectives for review
- Timetable for review
- Funding and partnership options
- Council reporting

Questions were raised by Council Members and answered by officers. From the discussion the following consensus emerged on key issues:

- Further information was to be obtained including outside expertise with regard to a range of development scenarios for the Civic Triangle in a sale or lease situation
- The focus of further planning investigations should be on the impact of the Southern Suburbs railway on the City of South Perth
- That a mini Town Planning Scheme Review should be undertaken for the South Perth train station precinct (including Mends Street commercial precinct) and the Canning Bridge train station precinct.

Note: This part of the Concept Forum concluded at 6.30pm

2. **Fringe Benefits Tax Overview**

The Director Financial and Information Services presented an overview of the operation of Fringe Benefits Tax (FBT) and examined several different strategies for effectively managing the City's Fringe Benefits Tax liability.

The major topics covered in the presentation included:

- What is FBT & who pays it?
- What types of items are subject to FBT?
- How is FBT calculated?
- What do we currently pay for FBT and what are the major components of the City's FBT liability?
- An examination of FBT as it relates to motor vehicle benefits
- Illustrative examples of FBT calculations using the statutory formula.
- The impact of employee contributions
- Employee contributions and salary packaging
- Recommendations for responsibly managing the City's FBT liability in the future

Questions were asked by Council Members in relation to the operation of the FBT legislation and what stance the City's local government peers were taking in relation to managing their FBT liability. Following discussion on several different strategies relating to the responsible management of FBT, the Director Financial and Information Services undertook to further investigate an alternative proposed by Cr Brian Hearne and to report any relevant findings back to Council.

3. **Closure**

The Mayor closed the Concept Forum at 7.18pm and thanked everyone for their attendance.



NOTES CONCEPT FORUM

- Underground Power Program Update
 - SJMP Foreshore Capital Works Program
- Held in the Council Chamber, Sandgate Street
Tuesday 10 October 2006 commencing at 5.30pm**

Present:

Deputy Mayor Maddaford Mill Point Ward (Chairman)

Councillors:

J Best	Civic Ward
G W Gleeson	Civic Ward (from 5.55pm)
L M Macpherson	Como Beach Ward (from 5.40pm)
C A Cala	McDougall Ward
D S Smith	Mill Point Ward
S Doherty	Moresby Ward
K R Trent, RFD	Moresby Ward

Officers:

Mr C Frewing	Chief Executive Officer
Mr M Kent	Director Financial and Information Services
Mr L Croxford	Acting Director Infrastructure Services
Ms D Gray	Manager Financial Services
Mr M Taylor	Manager City Environment
Ms K Dravnieks	Horticultural Officer

Apologies

Mayor J Collins, JP	
Cr B W Hearne	Como Beach Ward - Leave of Absence
Cr L J Jamieson	Manning Ward
Cr L P Ozsdolay	Manning Ward - anticipated late arrival
Cr R Wells, JP	McDougall Ward

OPENING

Deputy Mayor Maddaford opened the Concept Forum at 5.30pm and welcomed everyone in attendance.

1. Underground Power Program Update

The Acting Director Infrastructure Services presented an update on the Survey Results and Financial Model in relation to the Como East Underground Power Project. He addressed the following topics:

- **Survey Summary**
 - Total properties in survey area 2388
 - Total registered pensioners 365

- **Total properties surveyed** 2259
- **Total responses** 690
- **Responses from Pensioners** 120

Note: Cr Macpherson arrived at 5.40pm

- **Survey Questions / Responses**

Question 1: Do you support the installation of underground power in your area.

Response: 83.2% of all respondents do support the installation of UGP,
16.8% of all respondents do not support the installation of UGP

Question 2: Based on the cost estimate of \$2,800 - \$3,400 for a single residential property,
I will - pay to put power underground,
- not pay and want to keep the overheads.

Response: 79.9% of all respondents would pay
20.1% of all respondents would not pay and want to keep the overhead power lines and poles.

Question 3: Pensioners will be entitled to a pensioner discount, are you a registered pensioner.

Response: 32.7% of all respondents were pensioners, and 67.3% of all respondents were not.

Question 4: If the project were to proceed, which of the payment options would you prefer,

Response: Payment Option Preference for overall survey area - Full Payment 47.4%, Payment of 3 years 25.8% and payment over 5 years 26.8%.

Note: Cr Gleeson arrived 5.55pm

- **Survey Results**

From the results - 82.8% of pensioners would elect to pay for underground power compared to 79.6% of non pensioners.

- **Payment Option Preferences**

- **General Comments from 46 responses**

- **Estimated Cost by Western Power**

- **Como East Underground Power / Costing / Commercial Charges**

- **Overview of Discounts**

- **Revenue Model**

- **Where to from Here**

The Acting Director Infrastructure Services advised that a report will be presented to Council as soon as practicable and Council will be requested to:

- Agree to the works proceeding
- Establish a schedule of network charges
- Identify discounts available for certain property owners
- Determine the appropriate connection charge
- Facilitate payment of the underground power charge through a series of payment options
- Resolve that any charges outstanding at the sale of the property shall be a debt recoverable in full from the former property owner

Questions were raised during and at the end of the presentation by Members and responded to by the Acting Director Infrastructure Services.

Deputy Mayor Maddaford thanked the Acting Director Infrastructure Services for his presentation.

Note: This part of the Concept Forum concluded at 6.25pm

2. **Sir James Mitchell Park Foreshore Capital Works Program**

The Manager City Environment presented an overview of the Foreshore Capital Works Program for Sir James Mitchell Park and covered the following topics:

BACKGROUND

• **General Information**

- Sir James Mitchell Park covers approximately 60 hectares.
- It is the most significant parkland and passive recreation area in the City of South Perth.
- A regional recreation space attracting visitors from the wider metropolitan area.
- Caters for diverse activities including walking, jogging, cycling, dog exercise, picnics, barbecues, etc, and major events (Skyshow, Red Bull Air race, Fiesta).
- The visual relationship between the park and the Central Business District is an important feature of the park.

• **Management Framework**

- In April 2001, the City and the Swan River Trust adopted and released the Sir James Mitchell Park Foreshore Management Plan.
- The purpose of the plan is to guide the management of the park by the City of South Perth and the Swan River Trust.
- The plan contains 53 Actions to be progressively implemented.

• **SJMP Management Plan**

Vision statement: *Sir James Mitchell Park shall be parkland of regional significance;*

Mission statement: *Sir James Mitchell Park shall be a passive recreational parkland complementing and preserving the unique Swan River and city vistas, and protecting the aesthetic, amenity and conservation values of the area for the enjoyment of the community.*

• **Specific Actions of the Management Plan Pertinent to SJMP projects**

Action 26

- The potential for increasing the area of beach adjacent to the existing launching ramp be assessed.
- Action 28
- Existing picnic sites be expanded to match user demand with new facilities being constructed in the vicinity of Ellam Street and the Narrows Bridge;
- Shelter structures be provided at picnic sites along with shade trees to provide adequate shelter from the weather;
- Consideration be given to the provision of disabled access, water, litterbins and telephone facilities at all picnic sites.

Action 30

- Standard signage and furniture be developed for the Sir James Mitchell Park area.

Action 33

- Council accepts the 'Revised Tooby Plan – 1987' in respect of the number of trees in the area covered by that Plan (1,142 trees between Ellam Street and the no. 11 car park – eastern end of SP Esplanade).

Action 34

- Trees planted in the area covered by the 'Revised Tooby Plan – 1987' be positioned so that they are generally planted in approximate elliptical groves whose major axis is oriented generally perpendicular to the river at the locations and to achieve the total number of existing and additional trees as shown in the planting plan.

Action 36

- A landscape plan to be developed in areas not covered by the 'Revised Tooby Plan – 1987' (Esplanade section of the park) to give maximum benefit to Park users in those areas and, to the extent consistent with this objective, minimise obstruction of views.

Action 38

- Locally provenanced Eucalyptus rudis and other endemic trees be planted within the Park except in areas whose character is currently defined by other species or landscape elements.

Action 45 - Conduct an environmental assessment and develop a management plan for the lake system to address the following:

- Improvements to the water quality;
- Bird usage around the lakes and the establishment of suitable bird habitat including fringing vegetation;
- Public consultation and environmental investigations in collaboration with investigations proposed by the Water and Rivers Commission to determine the potential for modifying or extending the lakes on the foreshore as breeding habitat for Black Swans;
- Monitoring and management of mosquito and midge breeding in consultation with the Swan River Trust and the WA Health Department.

Action 47

- The river retaining walls be maintained as necessary.

Action 48

- The City of South Perth to assess the feasibility of creating a water feature near the Old Mill that may include beaches and shade facilities.

PROJECT RESPONSE

• **Sir James Mitchell Park Esplanade Landscape Plan**

- Section of the park between the South Perth Esplanade car park and west of the Narrows bridge.
- Developed specifically to implement Action 36 and other objectives of the SJMP Foreshore Management Plan and to achieve broad acceptance from the community.
- Emphasis placed on the Mends Street jetty precinct as a focal point in the park.
- Incorporates recommendations of the Foreshore Renovation study.
- A community design workshop to give the consultants the opportunity to work up concepts for the landscape plan (held 29 May 2002).
- Liaison with the Sir James Mitchell Park Community Advisory Group for project review.

• **Sir James Mitchell Park Foreshore Renovation Plan**

- Study area being the park foreshore between Ellam Street (eastern end) and the grassed section west of the Narrows Bridge (western extent of the park).
- Developed specifically to improve the standard of foreshore treatment in the park.
- Consideration given to provide easy access to the river for the visiting public.
- Other factors considered are:
 - Habitat protection and enhancement.
 - Creation and retention of stable shorelines.
 - Works must minimise ongoing maintenance costs.

• **Sir James Mitchell Park Foreshore Renovation Plan**

■ Output to include:

- Study of the river/shoreline dynamics.
- Assessment of the condition of the river wall.
- Foreshore Renovation Plan containing approaches to creating sustainable beaches in identified sections of the park.
- Provision of habitat for the attraction and retention of Black Swans.
- Liaison with the Sir James Mitchell Park Community Advisory Group for project review.

PROJECT DESIGN

- **Sir James Mitchell Park Foreshore Renovation Plan**
 - Three beach reconstruction zones – the creation and enhancement of beaches west of Mends and in vicinity of flag pole.
 - Coode Street activity zone – soft planting around recreational beaches to improve their visual amenity.
 - Black Swan conservation zone – the creation of a swan habitat in the river in the vicinity of the Hurlingham Road car park.
 - Two river wall rush planting zones – to protect the wall, create and enhance habitat and for improved visual amenity.
 - Upgrade to the Mends Street Jetty precinct.
 - Tree planting immediately east and west of the Narrows Bridge.
 - * **The plans were adopted by Council in December 2003.**

- **Black Swan Habitat Concept**

- **Project Implementation / Funding**
 - Implementation of individual projects will depend on available funding.

- **Works Proposed for 2006 - 2009**
 - Detailed design and documentation beaches project plus Acid Sulphate assessment
 - Implementation of the Beach Creation Project
 - Park furniture design project
 - Replacement of Scented Gardens BBQ area.
 - Implementation of the River Wall Rush Planting project (east of Coode Street)
 - Mends Street Precinct development - on hold until new ferry jetty constructed
 - Narrows foreshore landscaping
 - Narrows car park redevelopment
 - Appointment of a consultant to develop a detailed design plan to improve the water quality and landscaping of the lakes within the park, including wood lined drain (Action 45) and the proposed Swan Habitat

- **Future Projects**
 - Beach creation in the vicinity of Ellam Street (involves removal of river wall so will be subject to success of other beach creation projects);
 - Park development between Hurlingham and Ellam Street (includes potential new BBQ area, landscaping);
 - Remaining BBQ area upgrades (Coode Street x 2 sites, Hurlingham Road).

Questions were raised during and at the end of the presentation by Members and responded to by the Manager City Environment.

Deputy Mayor Maddaford thanked the Manager City Environment and the Horticultural Officer for the presentation.

Como Beach Tender Results Update

Following the close of the presentation, and at the request of the Chief Executive Officer, the Manager City Environment provided Members with an update on the Como Beach Landscaping Project tender results and advised that the matter will be the subject of a report going to the October Council meeting.

3. Closure

Deputy Mayor Maddaford closed the Concept Forum at 7.35pm and thanked everyone for their attendance.

DELEGATE'S REPORT

**PERTH AIRPORT NOISE MANAGEMENT STRATEGY COMMITTEE
MEETING HELD WEDNESDAY 4 OCTOBER 2006**

At this meeting the Committee members were presented with a PowerPoint display incorporating a review strategy of the aircrafts' route in and out of Perth airport. One of the main features reflects on aircraft movements over the City of South Perth. We are affected mainly by international carriers, but the only international carrier that has access to fly visual approach over the Perth area, and mainly South Perth, is Qantas. That, however, is only for arrivals and the descent pattern is considered dangerous and therefore used minimally. It was explained that no other arrivals should be directly over South Perth unless weather patterns - thunderstorms etc dictated otherwise.

On the downside the departure route for all aircraft internationally is currently designated over South Perth and will continue. Noise impact is a feature of environmental unacceptability of low flying aircraft and noise; however from explanations of the WA Airports Corporation Pty Ltd, these are closely monitored.

The point that I made was that it is not only the noise, it is timing of that noise with international flights generally - early morning or late evening - with the majority being early morning. That had to be a consideration when determining routes purely and simply on a safety basis.

I felt that this meeting which was to also endorse a new term of reference for the committee itself, and a change of name to the Airport Noise Management Consultative Committee, had gained clarity in its role to continue its effectiveness in keeping a strict vigilance ensuring that aircraft movements meet environmentally accepted standards.



JOHN COLLINS JP
MAYOR
5 October 2006

CHECKLIST ITEMS (<i>Table 1</i>)	CEO MEMO	SAT OUTCOME	SAT COMMENTS	ACTION TAKEN
Has proper consideration been given to the proposed single bedroom dwellings, noting that they are a 'D' (discretionary use within both the Residential and Highway Commercial Zones?	✓	✓	The Tribunal made no reference to any concern about the appropriateness of the site being developed with Single Bedroom Dwellings. Indeed, the Tribunal found that <i>"the site was amenable to high density residential development."</i>	Not applicable.
Has proper consideration been given to the proposed multiple dwellings noting that they are a 'D' [discretionary] use in the Highway Commercial Zone?	✓	✓	The Tribunal made no reference to any concern about the appropriateness of the site being developed with Multiple Dwellings. Indeed, the Tribunal found that <i>"the site was amenable to high density residential development."</i>	Not applicable
In the view of the City's Professional Officers, does the application comply with all material requirements of the Council's TPS, or will comply subject to recommended conditions?	✓	✗	<p>While the City's Officers were of the opinion that the proposed development was suitable for approval, the Tribunal, on review, had a different view with respect to the following areas:</p> <p><u>Plot Ratio:</u> The City's (and the LG Planning sector generally) previous long-standing practice had been to exclude private store rooms from plot ratio (maximum permissible floor area) calculations. This exclusion was based upon store rooms being deemed to be "equipment rooms" which are not to be included under the R-Codes definition of "plot ratio". If the store rooms are included when calculating plot ratio floor area, then the proposed development exceeds the prescribed maximum plot ratio.</p> <p>In the SAT determination of 14 October 2005 relating to the existing building at No. 11 Heppingstone Street, South Perth, the Tribunal ruled that private store rooms were to be included in plot ratio calculations. When dealing with the Canning Mews appeal, the Tribunal was aware of that ruling, and accordingly, found that the Canning Mews proposal exceeded the prescribed maximum plot ratio.</p> <p>It is noted that the SAT decision is some 5 months after the date of the CEO Memo.</p>	<p><u>Plot Ratio:</u> As advised on a number of occasions, since the Canning Mews decision was handed down, the City's Planning Officers have been consistently including store rooms when calculating plot ratio floor area.</p>

			<p><u>Amenity - Hovia Terrace streetscape:</u> This reason relates to subjective amenity considerations. In arriving at its decision regarding the "streetscape conflict" issue, the Tribunal was mindful of, among other things, the provisions of TPS6 Clauses 1.6 (Scheme Objectives) and 7.5 (Matters to be Considered by Council). The Tribunal found that notwithstanding that the development otherwise complied with the Scheme provisions (subject to the storeroom issue), the proposed development was inconsistent with the streetscape of the Hovia Terrace focus area from an 'amenity' point of view.</p>	<p><u>Amenity Hovia Tce streetscape:</u> The City Officers have always had regard to the amenity-based provisions of Clauses 1.6 and 7.5 of TPS6, however the Canning Mews decision brought these "amenity" factors into sharper focus. The emphasis placed on "amenity" factors in the Canning Mews case was greater than had been evident over many years previously under the jurisdiction of the former Town Planning Appeal Tribunal.</p> <p>Prior to the Canning Mews decision, the City Officers' standard assessment sheet already contained a section relating to TPS6 Clause 7.5 (Matters to be Considered by Council). Since the Canning Mews decision, the standard assessment sheet has been amended to also include reference to Clause 1.6 (Scheme Objectives).</p> <p>Concurrently, the standard content of Planning Officers' reports to Council meetings has been expanded by the inclusion of sections dealing specifically with Clauses 1.6 and 7.5 of TPS6.</p> <p>The Canning Mews SAT decision reinforced the need to have regard to amenity factors and as a consequence, there is now greater focus on such factors when dealing with development applications.</p>
<p>Do the setbacks of the development comply with the Council's TPS, with the proper exercise of discretion in certain circumstances?</p>	<p>✓</p>	<p>-</p>	<p>In its concluding comments, the Tribunal determined that the proposed development would satisfactorily address the various reasons for refusal if it were modified in a number of ways, one of which was to incorporate increased setbacks from both the adjoining right-of-way and the Hovia Terrace street alignment.</p>	<p>While the building setbacks were seen to satisfy the provisions of the City's Town Planning Scheme (incorporating the Residential Design Codes), the Tribunal felt that it was appropriate for increased setbacks to be provided from the right-of-way and the Hovia Terrace street alignment. The basis for promoting these increased setbacks relates primarily to the scale and bulk issues that have been referred to above.</p>
<p>Do the parking requirements of the development comply with the Council's TPS?</p>	<p>✓</p>	<p>✓</p>	<p>The Tribunal did not express any concern with respect to car parking provision.</p>	<p>Not applicable.</p>

<p>Do the height limit requirements of the development comply with the Council's TPS?</p>	<p>✓</p>	<p>-</p>	<p>Due to concern about the impact of building bulk upon the Hovia Terrace streetscape, particularly towards the south-eastern end of the site, based upon their interpretation of Clause 6.2(1)(b)(ii) of TPS6, the SAT decided to measure the building height from a mid-point along the Hovia Terrace frontage. Measured in this way, the SAT deemed the wall height of the building to be excessive.</p>	<p>The Canning Mews site slopes downwards from Canning Highway along the Hovia Terrace frontage towards the south-eastern corner of the site. Under the City's Town Planning Scheme No. 6 (TPS6), subject to certain qualifications, the wall height of a building is measured from the highest point of the ground beneath that building. If measured from that point near Canning Highway, the proposed development complies with the prescribed building height limit.</p> <p>If the City were to adopt the position of the Tribunal by selecting the lowest point of the ground beneath the footprint of a building from which to calculate an allowable building height, an aggrieved applicant would have the capacity to seek review of such decision by the Tribunal.</p>
<p>Does the number of units of the development comply with the Council's TPS?</p>	<p>✓</p>	<p>✓</p>	<p>The Tribunal determined that the "discretion to reduce the minimum site area to permit additional single bedroom units should not be exercised positively in the circumstance of the case", however, it did not state that the number of dwellings which had been proposed did not comply with the maximum number accommodated by TPS6.</p> <p>Effectively, the Tribunal determined that the amount of plot ratio floor area should be reduced (because of the inclusion of storerooms in the plot ratio) and suggested that this could be achieved by the deletion of one of the Single Bedroom Dwellings. It could equally have suggested that the same number of dwellings be retained, with the amount of floor area for each of these dwellings being reduced proportionately in order to achieve compliance with the maximum allowable plot ratio floor area.</p>	<p>Officers are mindful of the Tribunal's findings in this respect and caution is being exercised in relation to the granting of the potentially allowable density bonus, particularly in cases where dwellings of this kind incorporate a floor area exceeding 60 sq. metres.</p>
<p>Does the open space provision of the development comply with the Council's TPS?</p>	<p>✓</p>	<p>✓</p>	<p>The Tribunal did not accept a certain triangular driveway area and 1.0 metre wide landscape strips as constituting "Communal Open Space" as defined in the Residential Design Codes (R-Codes). Accordingly, the SAT deemed the provision of Communal Open Space to be deficient.</p>	<p>The SAT's interpretation is consistent with the City Officer's established practice, noting that the officers recommended the imposition of a condition requiring compliance with communal open space requirements. The officers are mindful of the issue and are correctly calculating Communal Open Space provision.</p>

CHECKLIST ITEMS (<i>Table 2</i>)	CEO MEMO	SAT OUTCOME	SAT COMMENTS	ACTION TAKEN
Does the City's Design Advisory Committee support the amended design of the building subject to further detailed refinements?	✓	N / A	No comment made.	-
Has the Council taken all reasonable legal advice on this development to confirm its compliance with Council's TPS?	✓	N / A	No comment made.	-
Has the City Solicitor vetted the report to Council?	✓	N / A	No comment made.	-
Does the City Solicitor agree that the development complies in all material respects to the Council's TPS subject to the application of the recommended conditions?	✓	N / A	No comment made.	-
In the view of the City CEO, could the Council's reputation suffer if this development application is not approved at this Council meeting?	✓	N / A	No comment made.	-
If Council conditionally supports the development application at this Council meeting, will the position of Council be strengthened and maximised having regard for the SAT initiated compulsory conference to be held on Friday, 29 July?	✓	N / A	No comment made.	-
Will control of the development approval process for this application be weakened if Council does not support this application at this Council Meeting?	✓	N / A	No comment made.	-

Notes relating to Item 9.3.3

Barker Avenue is classified under the Metropolitan Functional Road Hierarchy as a local distributor road. As a local distributor the maximum desirable volume is 6,000 vehicles/day. The criteria for a local distributor and district distributor B are very similar particularly in the older more established areas where the historic network has evolved to its current status.

The expectation particularly in inner urban local governments would have the following ranges for the Functional Road Hierarchy:

- Local Distributor 3,000 vpd to 8,000 vpd
- District Distributor B 6,000 vpd to 12,000 vpd
- District Distributor A 8,000 vpd to 20,000 vpd
- Primary Distributor 15,000 vpd to 40,000 vpd

The most recent counts for Barker Avenue, Brittain Street to Canning Highway in 2002 with average daily trips (ADT) of 5,638 vehicles per day (VPD).

It is interesting to note that counts in 1992 returned an ADT of 5,042 vpd. Ten years later the count at 5,638 vpd represents approximately a 1.2% increase per annum. The percentage increase is consistent with forecast traffic across the metropolitan area. The traffic count today is likely therefore to be approximately 6,000 vpd and is well within the historic values for roads of this classification.

With appropriate traffic management along the street and controlled by traffic signals the capacity of Barker Avenue is well within the limit expected of the higher classified District Distributor B. It would not be unreasonable for an upper limit of 8,000 vpd to be assigned to this street without unduly affecting the service level of the street. With the exception of the morning peak and certain times during the day the service level expected through the intersection would be level D i.e. prolonged delay, extended queues, missed signal changes, however at all other times the roadway would function with a level C or higher i.e. infrequent delays, relative free flowing traffic.

The addition of 23 single bedroom apartments to Barker Avenue is likely to increase overall traffic volumes in Barker Avenue by about 115 vehicles/day i.e. 5 trips per apartment (compare 8 trips per single residential development).

Accepting that 20% of the trips are generated in the morning peak with 100% of the movements westbound to Canning Highway the introduction of an additional 23 vehicles to Barker Avenue will peak at 370 vph i.e. up from 347. It should be noted for the preceding hour traffic volume in Barker Avenue was 202 vph and for the hour following the peak fell to 184 vph. At 370 vph the volume is well under the generally accepted upper lane volume (300 vph per lane) through a signal controlled intersection. With two available lanes at Canning Highway the theoretical volume of the intersection is 600 vph at a service level D.

The introduction of a further 23 vehicles at the morning peak should have negligible impact on the operation of Barker Avenue already experiencing a service level D at the morning peak time. This service level would be consistent with the signalised intersections along Canning Highway at South Terrace and Douglas Avenue and Mill Point Road at both Labouchere Road and Mends Street.

L H CROXFORD
MANAGER ENGINEERING INFRASTRUCTURE

WESTERN AUSTRALIA

City of South Perth Standing Orders Local Law 2006

ARRANGEMENT

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draft

City of South Perth

Standing Orders Local Law 2006

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Council of the City of South Perth resolved on to make the following local law.

Part 1 - Preliminary

1.1 Citation

- (1) This local law may be cited as the City of South Perth Standing Orders Local Law 2006.
- (2) In the clauses that follow, this local law is referred to as “these Standing Orders”.

1.2 Commencement

By virtue of section 3.14 of the Act, these Standing Orders come into operation 14 days after the date of their publication in the *Government Gazette*.

1.3 Application and intent

- (1) These Standing Orders provide rules and guidelines which apply to the conduct of meetings of the Council and its committees and to meetings of electors.
- (2) All meetings are to be conducted in accordance with the Act, the Regulations and these Standing Orders.
- (3) These Standing Orders are intended to result in:
 - (a) better decision-making by the Council and committees;
 - (b) the orderly conduct of meetings dealing with Council business;
 - (c) better understanding of the process of conducting meetings; and
 - (d) the more efficient and effective use of time at meetings.

1.4 Interpretation

- (1) In these Standing Orders unless the context otherwise requires:

“absolute majority” has the meaning given to it in the Act;

“absolute majority” means:

- (a) in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be more than 50% of the number of offices (whether vacant or not) of member of the council;
- (b) in relation to any other body, means a majority comprising enough of the persons for the time being constituting the body for their number to be more than 50% of the number of offices (whether vacant or not) on the body. [Section 1.4 of the Act]

“75% majority” has the meaning given to it in the Act;

“75% majority”, in relation to a council, means a majority comprising enough of the members for the time being of the council for their number to be at least 75% of the number of offices (whether vacant or not) of member of the council. [Section 1.4 of the Act]

“Act” means the *Local Government Act 1995*;

“CEO” means the Chief Executive Officer of the City;

“City” means the City of South Perth;

“committee” means a committee of the Council established under section 5.8 of the Act;

“committee meeting” means a meeting of a committee;

“Council” means the Council of the City;

“Mayor” means the Mayor of the City or other Presiding Member at a Council meeting under section 5.6 of the Act;

“meeting” means a meeting of the Council or a committee, as the context requires;

“Member” has the meaning given to it in the Act;

“member”, in relation to the council of the local government, means:

- (a) an elector mayor or president of the local government; or
- (b) a councillor on the council (including a councillor who holds another office under section 2.17(2)(a) or (b) as well as the office of councillor. [Section 1.4 of the Act]

“Presiding Member” means:

- (a) in respect of the Council, the person presiding under section 5.6 of the Act; and
- (b) in respect of a committee, the person presiding under sections 5.12, 5.13, and 5.14 of the Act;

“Regulations” means the *Local Government (Administration) Regulations 1996*;

“simple majority” means more than 50% of the members present and voting; and,

“substantive motion” means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.

(2) Unless otherwise defined in these Standing Orders, the terms and expressions used in these Standing Orders are to have the meaning given to them in the Act and Regulations.

(3) A reference to ‘local government’ in these Standing Orders is a reference to the City of South Perth.

1.5 Repeal

The City of South Perth Standing Orders Local Law 2002, published in the *Government Gazette* on 22 November 2002, is repealed.

1.6 Provisions of the Act, Regulations and other legislation

(1) Throughout these Standing Orders, provisions of the Act and Regulations, and provisions of other legislation, are reproduced in a boxed format.

(2) The purpose of reproducing these provisions is to assist the reader by giving a fuller picture of related legislative provisions that also apply to meetings of the Council, committees and electors.

(3) The reproduced provisions of the Act and Regulations and other legislation:

- (a) are to be treated as footnotes and are not part of these Standing Orders (see section 32(2) of the *Interpretation Act 1984*); and
- (b) reproduce only the provisions that were in force at the time that the Council resolved to adopt these Standing Orders and therefore may not necessarily be correct at a future date.

Part 2 – Establishment and membership of committees

2.1 Establishment of committees

(1) The establishment of committees is dealt with in the Act.

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. [Section 5.8 of the Act]

(2) A Council resolution to establish a committee under section 5.8 of the Act is to include:

- (a) the terms of reference of the committee;
- (b) the number of council members, officers and other persons to be appointed to the committee;

- (c) the names or titles of the council members and officers to be appointed to the committee;
- (d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and
- (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

(3) These Standing Orders are to apply to the conduct of committee meetings.

2.2 Types of committees

The types of committees are dealt with in the Act.

- | | |
|---|--------------------------|
| <ul style="list-style-type: none"> (1) In this section –
'other person' means a person who is not a council member or an employee. (2) A committee is to comprise – <ul style="list-style-type: none"> (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. | [Section 5.9 of the Act] |
|---|--------------------------|

2.3 Delegation of some powers and duties to certain committees

The delegation of some powers and duties to certain committees is dealt with in the Act.

- | | |
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| <ul style="list-style-type: none"> (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.
<i>*Absolute majority required.</i> (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 <i>Interpretation Act 1984</i> – <ul style="list-style-type: none"> (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. | [Section 5.16 of the Act] |
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2.4 Limits on delegation of powers and duties to certain committees

The limits on the delegation of powers and duties to certain committees are dealt with in the Act.

- | | |
|--|---------------------------|
| <ul style="list-style-type: none"> (1) A local government can delegate – <ul style="list-style-type: none"> (a) to a committee comprising council members only, any of the council's powers or duties under this Act except – <ul style="list-style-type: none"> (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 – <ul style="list-style-type: none"> (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). | [Section 5.17 of the Act] |
|--|---------------------------|

2.5 Appointment of committee members

The appointment of committee members is dealt with in the Act.

- | |
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| <ul style="list-style-type: none"> (1) A committee is to have as its members – <ul style="list-style-type: none"> (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).
<i>* Absolute majority required.</i> (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. [Section 5.10 of the Act]

2.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

- (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. [Section 5.11 of the Act]

2.7 Resignation of committee members

The resignation of committee members is dealt with in the Regulations.

A committee member may resign from membership of the committee by giving the CEO or the committee's presiding member written notice of the resignation. [Regulation 4 of the Regulations]

2.8 Register of delegations to committees

The register of delegations to committees is dealt with in the Act.

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. [Section 5.18 of the Act]

2.9 Committees to report

A committee:

- (a) is answerable to the Council; and
- (b) is to report on its activities when, and to the extent, required by the Council.

Part 3 - Calling and convening meetings

3.1 Ordinary and special Council meetings

- (1) Ordinary and special Council meetings are dealt with in the Act.

- (1) A council is to hold ordinary meetings and may hold special meetings.
- (2) Ordinary meetings are to be held not more than 3 months apart.

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| (3) | If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure. | [Section 5.3 of the Act] |
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- (2) An ordinary meeting of the Council, held on a monthly basis or otherwise as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

3.2 Calling Council meetings

The calling of Council meetings is dealt with in the Act.

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| 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. | [Section 5.4 of the Act] |

3.3 Convening Council meetings

- (1) The convening of a Council meeting is dealt with in the Act.

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| (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. [Section 5.5 of the Act] |

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| Sections 9.50 to 9.54 of the <i>Local Government Act 1995</i> and sections 75 and 76 of the <i>Interpretation Act 1984</i> deal with how documents can be given to a person. Under these provisions, notice of a meeting may be given to a council member by – | | |
| (a) | personally handing the notice to the member; or | |
| (b) | sending it by post to the last known address of the member. | |

- (2) Subject to subclause (3), the CEO is to give at least 72 hours' notice, for the purposes of section 5.5, in convening a special meeting of the Council.
- (3) Where, in the opinion of the Mayor or at least one-third of the Members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

3.4 Calling committee meetings

The CEO is to call a meeting of any committee when requested by the Mayor, the Presiding Member of a committee or any two members of that committee.

3.5 Public notice of meetings

Public notice of meetings is dealt with in the Regulations.

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| (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.

[Regulation 12 of the Regulations]

Part 4 – Presiding Member and quorum

Division 1: Who presides

4.1 Who presides

Who presides at a Council meeting is dealt with in the Act.

- (1) The mayor or president is to preside at all meetings of the council.
- (2) If the circumstances mentioned in section 5.34(a) or (b) apply the deputy mayor or deputy president may preside at a meeting of the council 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 council is to choose one of the councillors present to preside at the meeting.

[Section 5.6 of the Act]

4.2 When the Deputy Mayor can act

When the Deputy Mayor can act is dealt with in the Act.

- If –
- (a) the office of mayor or president is vacant; or
 - (b) the mayor or president is not available or is unable or unwilling to perform the functions of the mayor or president,
- then the deputy mayor may perform the functions of mayor and the deputy president may perform the functions of president, as the case requires.

[Section 5.34 of the Act]

4.3 Who acts if no Mayor

Who acts if there is no Mayor is dealt with in the Act.

- (1) 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,and the mayor or president or deputy will not be able to perform the functions of the mayor or president for a time known to the council, then the council may appoint a councillor to perform during that time the functions of the mayor or president, as the case requires.
- (2) 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, and a person has not been appointed under subsection (1), the CEO, after consultation with, and obtaining the agreement of, 2 councillors selected by the CEO, may perform the functions of mayor or president, as the case requires.

[Section 5.35 of the Act]

4.4 Election of Presiding Members of committees

The election of Presiding Members of committees and their deputies is dealt with in the Act.

- (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'; and
 - (c) to 'councillors' were references to 'committee members.[Section 5.12(1) of the Act]

Clauses 2 to 5 inclusive of Schedule 2.3 provide as follows:

2. When the council elects the mayor or president

- (1) The office is to be filled as the first matter dealt with –
 - (a) at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and
 - (b) at the first meeting of the council after an extraordinary vacancy occurs in the office.

<p>(2) If the first ordinary meeting of the council is more than 3 weeks after an extraordinary vacancy occurs in the office, a special meeting of the council is to be held within that period for the purpose of filling the office.</p> <p>3. CEO to preside The CEO is to preside at the meeting until the office is filled.</p> <p>4. How the mayor or president is elected</p> <p>(1) The council is to elect a councillor to fill the office.</p> <p>(2) The election is to be conducted by the CEO in accordance with the procedure prescribed.</p> <p>(3) Nominations for the office are to be given to the CEO in writing before the meeting or during the meeting before the close of nominations.</p> <p>(3a) Nominations close at the meeting at a time announced by the CEO, which is to be a sufficient time after the announcement by the CEO that nominations are about to close to allow for any nominations made to be dealt with.</p> <p>(4) If a councillor is nominated by another councillor the CEO is not to accept the nomination unless the nominee has advised the CEO, orally or in writing, that he or she is willing to be nominated for the office.</p> <p>(5) The councillors are to vote on the matter by secret ballot as if they were electors voting at an election.</p> <p>(6) Subject to clause 5(1), the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with the procedures set out in Schedule 4.1 (which deals with determining the result of an election) as if those votes were votes cast at an election.</p> <p>(7) As soon as is practicable after the result of the election is known, the CEO is to declare and give notice of the result in accordance with regulations, if any.</p> <p>5. Votes may be cast a second time</p> <p>(1) If when the votes cast under clause 4(5) are counted there is an equality of votes between 2 or more candidates who are the only candidates in, or remaining in, the count, the count is to be discontinued and the meeting is to be adjourned for not more than 7 days.</p> <p>(2) Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes.</p> <p>(3) When the meeting resumes the councillors are to vote again on the matter by secret ballot as if they were electors voting at an election.</p> <p>(4) The votes cast under subclause (3) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.</p>	<p>[Clauses 2 to 5 inclusive of Schedule 2.3]</p>
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4.5 Election of Deputy Presiding Members of committees

The election of Deputy Presiding Members of committees is dealt with in the Act.

<p>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 –</p> <p>(a) to 'office' were references to 'office of deputy presiding member';</p> <p>(b) to 'council' were references to 'committee';</p> <p>(c) to 'councillors' were references to 'committee members'; and</p> <p>(d) to 'mayor or president' were references to 'presiding member'.</p>	<p>[Section 5.12(2)]</p>
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<p><u>Division 2 (clauses 6, 7 and 8) of Schedule 2.3 provides as follows:</u></p>	
<p>6. Definitions In this Division — “extraordinary vacancy” means a vacancy that occurs under section 2.34(1); “the office” means the office of deputy mayor or deputy president.</p> <p>7. When the council elects the deputy mayor or deputy president</p> <p>(1) If the local government has an elector mayor or president the office of deputy mayor or deputy president is to be filled as the first matter dealt with —</p> <p>(a) at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and</p> <p>(b) at the first meeting of the council after an extraordinary vacancy occurs in the office.</p> <p>(2) If the local government has a councillor mayor or president the office of deputy mayor or deputy president is to be filled —</p>	

<p>(a) as the next matter dealt with after the mayor or president is elected at the first meeting of the council after an inaugural election or a section 4.13 or 4.14 election or after an ordinary elections day; and</p> <p>(b) subject to subclause (3), as the first matter dealt with at the first meeting of the council after an extraordinary vacancy occurs in the office.</p> <p>(3) If at a meeting referred to in clause 2(1)(b) the deputy mayor or deputy president is elected to be the mayor or president, the resulting extraordinary vacancy in the office is to be filled as the next matter dealt with at the same meeting.</p> <p>8. How the deputy mayor or deputy president is elected</p> <p>(1) The council is to elect a councillor (other than the mayor or president) to fill the office.</p> <p>(2) The election is to be conducted in accordance with the procedure prescribed by the mayor or president, or if he or she is not present, by the CEO.</p> <p>(3) Nominations for the office are to be given to the person conducting the election in writing before the meeting or during the meeting before the close of nominations.</p> <p>(3a) Nominations close at the meeting at a time announced by the person conducting the election, which is to be a sufficient time after the announcement by that person that nominations are about to close to allow for any nominations made to be dealt with.</p> <p>(4) If a councillor is nominated by another councillor the person conducting the election is not to accept the nomination unless the nominee has advised the person conducting the election, orally or in writing, that he or she is willing to be nominated for the office.</p> <p>(5) The council members are to vote on the matter by secret ballot as if they were electors voting at an election.</p> <p>(6) Subject to clause 9(1) the votes cast under subclause (5) are to be counted, and the successful candidate determined, in accordance with Schedule 4.1 as if those votes were votes cast at an election.</p> <p>(7) As soon as is practicable after the result of the election is known, the person conducting the election is to declare and give notice of the result in accordance with regulations, if any.</p>	<p>[Division 2 (clauses 6, 7 and 8) of Schedule 2.3]</p>
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4.6 Functions of Deputy Presiding Members

The functions of Deputy Presiding Members are dealt with in the Act.

<p>If, in relation to the presiding member of a committee –</p> <p>(a) the office of presiding member is vacant; or</p> <p>(b) the presiding member is not available or is unable or unwilling to perform the functions of presiding member,</p> <p>then the deputy presiding member, if any, may perform the functions of presiding member.</p>	<p>[Section 5.13 of the Act]</p>
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4.7 Who acts if no Presiding Member

Who acts if no Presiding Member is dealt with in the Act.

<p>If, in relation to the presiding member of a committee –</p> <p>(a) the office of presiding member and the office of deputy presiding member are vacant; or</p> <p>(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.</p>	<p>[Section 5.14 of the Act]</p>
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Division 2 – Quorum

4.8 Quorum for meetings

The quorum for meetings is dealt with in the Act.

<p>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.</p>	<p>[Section 5.19 of the Act]</p>
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4.9 Reduction of quorum for Council meetings

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in the Act.

<p>(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.</p>

- (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.

[Section 5.7 of the Act]

4.10 Reduction of quorum for committee meetings

The reduction of a quorum for committee meetings is dealt with in the Act.

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.

[Section 5.15 of the Act]

4.11 Procedure where no quorum to begin a meeting

The procedure where there is no quorum to begin a meeting is dealt with in the Regulations.

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 authorized by the CEO.

[Regulation 8 of the Act]

4.12 Procedure where quorum not present during a meeting

If at any time during a meeting a quorum is not present, the Presiding Member is:

- (a) immediately to suspend the proceedings of the meeting for a period of up to 15 minutes; and
- (b) if a quorum is not present at the expiry of that period, the Presiding Member is to adjourn the meeting to some future time or date.

4.13 Names to be recorded

At any meeting:

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

Note: Other provisions relating to the procedures to apply where a meeting is adjourned for want of a quorum are set out at Part 15 below.

Part 5 - Business of a meeting

5.1 Business to be specified

- (1) No business is to be transacted at any ordinary meeting of the Council other than that specified in the agenda, without the approval of the Presiding Member or the Council.
- (2) No business is to be transacted at a special meeting of the Council other than that given in the notice as the purpose of the meeting.
- (3) Subject to subclause (4), no business is to be transacted at an adjourned meeting of the Council other than that :
 - (a) specified in the notice of the meeting which had been adjourned; and
 - (b) which remains unresolved.
- (4) Where a meeting is adjourned to the next ordinary meeting of the Council then, unless the Council resolves otherwise, the business unresolved at the adjourned meeting is to be dealt with before considering Reports (Item 10) at that ordinary meeting.

5.2 Order of business

- (1) Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows:
 1. Declaration of Opening / Announcement of Visitors
 2. Disclaimer
 3. Announcements from the Presiding Member
 4. Attendance
 - 4.1 Apologies
 - 4.2 Approved leave of absence
 - 4.3 Applications for leave of absence
 5. Declaration of interest
 6. Public Question Time
 - 6.1 Response to previous public questions taken on notice
 - 6.2 Public question time
 7. Confirmation of minutes
 8. Presentations
 - 8.1 Petitions
 - 8.2 Presentations
 - 8.3 Deputations
 - 8.4 Delegates' reports
 9. Method of dealing with agenda business
 10. Reports
 11. Motions of which previous notice has been given
 12. Questions from Members without notice
 13. New business of an urgent nature introduced by decision of the meeting
 14. Meeting closed to public
 - 14.1 Matters for which the meeting may be closed
 - 14.2 Public reading of recommendations that may be made public
 15. Closure
- (2) Unless otherwise decided by the Council, the order of business at any special meeting of the Council is to be the order in which that business stands in the agenda of the meeting.
- (3) In determining the order of business for any meeting of the Council, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed. [See section 5.24 of the Act; and regulations 6 & 7 of the Regulations]

5.3 Motions of which previous notice has been given

- (1) Unless the Act, Regulations or these Standing Orders otherwise provide, a Member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.
- (2) A notice of motion under subclause (1) is to be given at least 7 clear working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good governance of the district.
- (4) The CEO -
 - (a) may, with the concurrence of the Mayor, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of any of these Standing Orders or any other written law;
 - (b) will inform Members on each occasion that a notice has been excluded and the reasons for that exclusion;
 - (c) may, after consultation with the Member where this is practicable, make such amendments to the form but not the substance as will bring the notice of motion into due form; and
 - (d) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) A motion of which notice has been given is to lapse unless:
 - (a) the Member who gave notice of it, or some other Member authorised by the originating Member in writing, moves the motion when called on; or
 - (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.

- (6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least 3 months from the date of such lapse.

5.4 New business of an urgent nature

- (1) In cases of extreme urgency or other special circumstances, matters may, on a motion by the Presiding Member that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), 'cases of extreme urgency or other special circumstances' means matters that have arisen after the preparation of the agenda that are considered by the Presiding Member to be of such importance and urgency that they are unable to be dealt with administratively by the City and must be considered and dealt with by the Council before the next meeting.

5.5 Adoption by exception resolution

- (1) In this clause 'adoption by exception resolution' means a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the officer recommendation as the Council resolution.
- (2) Subject to subclause (3), the City may pass an adoption by exception resolution.
- (3) An adoption by exception resolution may not be used for a matter:
 - (a) that requires a 75% majority or a special majority;
 - (b) in which an interest has been disclosed;
 - (c) that has been the subject of a petition or deputation;
 - (d) that is a matter on which a Member wishes to make a statement; or
 - (e) that is a matter on which a Member wishes to move a motion that is different to the recommendation.

Part 6 - Public participation

6.1 Meetings generally open to the public

Meetings being generally open to the public is dealt with in the Act.

<ul style="list-style-type: none"> (1) (2) (3) 	<p>Subject to subsection (2), the following are to be open to members of the public –</p> <ul style="list-style-type: none"> (a) all council meetings; and (b) all meetings of the committee to which a local government power or duty has been delegated. <p>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 –</p> <ul style="list-style-type: none"> (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 – <ul style="list-style-type: none"> (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 – <ul style="list-style-type: none"> (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 <i>Parliamentary Commissioner Act 1971</i>; and (h) such other matters as may be prescribed. <p>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.</p>
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[Section 5.23 of the Act]

6.2 Meetings not open to the public

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in the Act, may at any time, by resolution, decide to close a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried:
 - (a) the Presiding Member is to direct everyone to leave the meeting except:
 - (i) the Members;
 - (ii) the CEO; and
 - (iii) any Officer specified by the Presiding Member; and
 - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the Presiding Member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.9 is to be suspended until the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.
- (7) Unless the Council resolves otherwise, once the meeting is reopened to members of the public, the Presiding Member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including a vote of a Member to be included in the minutes.

6.3 Question time for the public

Question time for the public is dealt with in the Act.

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| <ol style="list-style-type: none">(1) Time is to be allocated for questions to be raised by members of the public and responded to at –<ol style="list-style-type: none">(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. |
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[Section 5.24 of the Act]

6.4 Question time for the public at certain meetings

Question time for the public at certain meetings is dealt with in the Regulations.

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| <p>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 –</p> <ol style="list-style-type: none">(a) every special meeting of a council;(b) every meeting of a committee to which the local government has delegated a power or duty. |
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[Regulation 5 of the Act]

6.5 Minimum question time for the public

Minimum question time for the public is dealt with in the Regulations.

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| <ol style="list-style-type: none">(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. |
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[Regulation 6 of the Act]

6.6 Procedures for question time for the public

Procedures for question time for the public are dealt with in the Regulations.

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| <ol style="list-style-type: none">(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 –<ol style="list-style-type: none">(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, |
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	having regard to the requirements of subregulations (2) and (3).
(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.
	[Regulation 7 of the Act]

6.7 Other procedures for question time for the public

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council for later response.
- (3) When a question is taken on notice the CEO is to ensure that:
 - (a) a response is given to the member of the public in writing; and
 - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (4) Where a question relating to a matter in which a relevant person has an interest 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.
- (5) Each member of the public with a question is entitled to ask up to 2 questions before other members of the public will be invited to ask their questions.
- (6) Where a member of the public provides written questions then the Presiding Member may elect for the questions to be responded to as normal business correspondence.
- (7) The Presiding Member may decide that a public question shall not be responded to where:
 - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
 - (b) the member of the public uses public question time to make a statement, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or
 - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the Presiding Member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (8) A member of the public shall have two minutes to submit a question.
- (9) The Council, by resolution, may agree to extend public question time.
- (10) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

6.8 Distinguished visitors

If a distinguished visitor is present at a meeting of the Council, the Presiding Member may acknowledge the presence of the distinguished visitor at an appropriate time during the meeting, and the presence of that visitor shall be recorded in the minutes.

6.9 Deputations

- (1) Any person or group wishing to be received as a deputation by the Council is to either :
 - (a) apply, before the meeting, to the CEO for approval; or
 - (b) with the approval of the Presiding Member, at the meeting, address the Council.
- (2) The CEO may either:
 - (a) approve the request and invite the deputation to attend a meeting of the Council; or
 - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) Unless the council resolves otherwise, a deputation invited to attend a Council meeting:

- (a) is not to exceed 5 persons, only 2 of whom may address the Council, although others may respond to specific questions from Members;
 - (b) is not to address the Council for a period exceeding 10 minutes without the agreement of the Council; and,
 - (c) additional members of the deputation may be allowed to speak with the leave of the Presiding Member.
- (4) Any matter which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

6.10 Petitions

- (1) A petition is to -
 - (a) be addressed to the Mayor;
 - (b) be made by electors of the district;
 - (c) state the request on each page of the petition;
 - (d) contain the name, address and signature of each elector making the request, and the date each elector signed;
 - (e) contain a summary of the reasons for the request; and
 - (f) state the name of the person to whom, and an address at which, notice to the petitioners can be given.
- (2) Upon receiving a petition, the City is to submit the petition to the relevant officer to be included in his or her deliberations and report on the matter that is the subject of the petition, subject to subclause(3).
- (3) At any meeting, the Council is not to vote on any matter that is the subject of a petition presented to that meeting, unless:
 - (a) the matter is the subject of a report included in the agenda; and
 - (b) the Council has considered the issues raised in the petition.

6.11 Presentations

- (1) In this clause, a 'presentation' means the acceptance of a gift or an award by the Council on behalf of the City or the community.
- (2) A presentation may be made to the Council at a meeting only with the prior approval of the CEO.

6.12 Participation at committee meetings

- (1) In this clause a reference to a person is to a person who:
 - (a) is entitled to attend a committee meeting;
 - (b) attends a committee meeting; and
 - (c) is not a member of that committee.

A member of the public is entitled to attend a committee meeting only where a local government power or duty has been delegated to that committee: see section 5.23(1)(b) of the Act.

- (2) Without the consent of the Presiding Member, no person is to address a committee meeting.
- (3) The Presiding Member of a committee may allow a person to make an oral submission to the committee for up to 3 minutes.
- (4) A person addressing the committee with the consent of the Presiding Member is to cease that address immediately after being directed to do so by the Presiding Member.
- (5) A person who fails to comply with a direction of the Presiding Member under subclause (4) may, by order of the Presiding Member, be removed from the committee room.
- (6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

6.13 Council may meet to hear public submissions

- (1) Where an item on the agenda at a Council meeting is contentious and is likely to be the subject of a number of deputations, the Council may resolve to meet at another time to provide a greater opportunity to be heard.
- (2) The CEO and the Mayor shall set the time and date of the meeting to provide the opportunity to be heard.

- (3) Where the Council resolves to meet to provide the opportunity to be heard under subclause (1), the Presiding Member shall:
 - (a) instruct the CEO to provide local public notice of the time and date when the Council will meet to provide an opportunity to be heard;
 - (b) provide a written invitation to attend the meeting to provide the opportunity to be heard to all members of the public who have applied under clause 6.9 to make a deputation on the issue; and
 - (c) cause minutes to be kept of the meeting to provide the opportunity to be heard.
- (4) A meeting held under subclause (1) shall be conducted only to hear submissions. The council shall not make resolutions at a meeting to provide the opportunity to be heard.
- (5) At a meeting held under subclause (1), each person making a submission shall be provided with the opportunity to fully state his or her case.
- (6) A member of the public shall be limited to 10 minutes in making an oral submission, but this period may be extended at the discretion of the Presiding Member.
- (7) Once every member of the public has had the opportunity to make a submission the Presiding Member is to close the meeting.
- (8) The CEO is to ensure that a report is included on the agenda of the next Council meeting summarising each submission made at the meeting.
- (9) The Council must not resolve on the matter that is the subject of a meeting to provide the opportunity to be heard until it has received the CEO's report under subclause (8).

6.14 Public Inspection of agenda materials

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the Civic Centre, Sir Walter Murdoch Libraries Civic Centre and Manning Branches and on the City's website.

- (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.
- [Regulation 14 of the Regulations]

6.15 Confidentiality of information withheld

- (1) Information withheld by the CEO from the public under regulation 14(2) of the Regulations is to be:
 - (a) identified in the agenda of a Council meeting under the item "Matters for which meeting may be closed";
 - (b) marked "*Confidential*" in the agenda; and
 - (c) kept confidential by Officers and Members until the Council resolves otherwise.
- (2) A member or an officer in receipt of confidential information under subclause (1) or information that is provided or disclosed during a meeting or part of a meeting that is closed to the public is not to disclose any of that information to any person other than another member or an officer to the extent necessary for the purpose of carrying out his or her duties.
- (3) Subclause (2) does not apply where a member or officer discloses the information to his or her lawyer or government officer for the purpose of seeking advice in order to lawfully fulfil his or her role and responsibilities.

6.16 Recording of proceedings

A person is not to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member.

6.17 Prevention of disturbance

- (1) A reference in this clause to a person is to a person other than a member.

- (2) A person addressing the Council shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the Presiding Member.
- (3) A person observing a meeting shall not 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 shall ensure that his or her mobile telephone or audible pager is not switched on or used during any meeting of the Council.
- (5) A person shall not behave in a manner that is contrary to section 75 of the Criminal Code.

Any person who by violence, or by threats or intimidation of any kind, hinders or interferes with the free exercise of any political right by another person, is guilty of a crime, and is liable to imprisonment for 3 years. [Section 75 of the Criminal Code]

Part 7 - Questions by Members

- (1) Members may ask questions relating to an item on the notice paper or on matters related to the good government of persons in the district.
- (2) A Member requesting general information from an Officer at a Council meeting may ask a question without notice and with the consent of the Presiding Member, may ask one or more further questions of that Officer or another Officer present at the meeting.
- (3) Where possible the Officer shall endeavour to answer the question to the best of his or her knowledge and ability, however, if the information is unavailable or the answer requires research or investigation, the Officer may ask that -
 - (i) the question be placed on notice for the next meeting of Council; and
 - (ii) the answer to the question be given to the Member who asked it within 14 days.
- (4) Every question and answer -
 - (i) is to be brief and concise; and
 - (ii) is not to be accompanied by argument, expression of opinion or statement of facts, except to the extent necessary to explain the question or answer.
- (5) In answering any question, an Officer may qualify his or her answer and may at a later time in the meeting or at a subsequent meeting alter, correct, add to or otherwise amend the original answer.

Part 8 – Conduct of Members

8.1 Members to be in their proper places

- (1) At the first meeting held after each election day, the CEO is to allot, alphabetically by ward, a position at the Council table to each Member.
- (2) Each Member is to occupy his or her allotted position at each Council meeting.

8.2 Respect to the Presiding Member

After the business of a Council has been commenced, a Member is not to enter or leave the meeting without first paying due respect to the Presiding Member.

8.3 Titles to be used

A speaker, when referring to the Mayor, Deputy Mayor or Presiding Member, or a Member or Officer, is to use the title of that person's office.

8.4 Advice of entry or departure

During the course of a meeting of the Council, a Member is not to enter or leave the meeting without first advising the Presiding Member, in order to facilitate the recording in the minutes of the time of entry or departure.

8.5 Members to indicate their intention to speak

A Member of the Council who wishes to speak is to indicate his or her intention to speak by raising his or her hand or by another method agreed by the Council.

8.6 Priority of speaking

- (1) Where two or more Members indicate, at the same time, their intention to speak, the Presiding Member is to decide which Member is entitled to be heard first.
- (2) A decision of the Presiding Member under subclause (1) is not open to discussion or dissent.
- (3) A Member is to cease speaking immediately after being asked to do so by the Presiding Member.

8.7 Presiding Member may take part in debates

The Presiding Member may take part in a discussion of any matter before the Council, subject to compliance with these Standing Orders.

8.8 Relevance

- (1) A Member is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.
- (2) The Presiding Member, at any time, may:
 - (a) call the attention of the meeting to:
 - (i) any irrelevant, repetitious, offensive or insulting language by a Member; or
 - (ii) any breach of order or decorum by a Member; and
 - (b) direct that Member, if speaking, to discontinue his or her speech.
- (3) A Member is to comply with the direction of the Presiding Member under subclause (2) by immediately ceasing to speak.

8.9 Speaking twice

A Member is not to address the Council more than once on any motion or amendment except:

- (a) as the mover of a substantive motion, to exercise a right of reply;
- (b) to raise a point of order; or
- (c) to make a personal explanation.

8.10 Duration of speeches

- (1) A Member is not to speak on any matter for more than 5 minutes without the consent of the Council which, if given, is to be given without debate.
- (2) An extension under this clause cannot be given to allow a Member's total speaking time to exceed 10 minutes.

8.11 No speaking after conclusion of debate

A Member is not to speak on any motion or amendment:

- (a) after the mover has replied; or
- (b) after the question has been put.

8.12 No interruption

A Member is not to interrupt another Member who is speaking unless:

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.13; or
- (d) to move a procedural motion that the Member be no longer heard (see clause 11(1)(e) .

8.13 Personal explanations

- (1) A Member who wishes to make a personal explanation relating to a matter referred to by another Member who is then speaking is to indicate to the Presiding Member his or her intention to make a personal explanation.
- (2) The Presiding Member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other Member.
- (3) A Member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

8.14 No reopening of discussion

A Member is not to reopen discussion on any Council decision, except to move that the decision be revoked or changed (see Part 16).

8.15 Adverse reflection

- (1) A Member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed (see Part 16).
- (2) A Member is not:
 - (a) to reflect adversely on the character or actions of another Member or Officer; or
 - (b) to impute any motive to a Member or Officer, unless the meeting resolves, without debate, that the question then before the meeting cannot otherwise be adequately considered.
- (3) A Member is not to use offensive or objectionable expressions in reference to any Member, Officer or other person.
- (4) If a Member specifically requests, immediately after their use, that any particular words used by a Member be recorded in the minutes:
 - (a) the Presiding Member is to cause the words used to be taken down and read to the meeting for verification; and
 - (b) the Council may, by resolution, decide to record those words in the minutes.

8.16 Withdrawal of offensive language

- (1) A Member who, in the opinion of the Presiding Member, uses an expression which:
 - (a) in the absence of a resolution under clause 8.15:
 - (i) reflects adversely on the character or actions of another Member or Officer; or
 - (ii) imputes any motive to a Member or Officer; or
 - (b) is offensive or insulting, must, when directed by the Presiding Member, withdraw the expression and make a satisfactory apology.
- (2) If a Member fails to comply with a direction of the Presiding Member under subclause (1), the Presiding Member may refuse to hear the Member further on the matter then under discussion and call on the next speaker.

8.17 Recording of proceedings

A Member is not to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member.

Part 9 - Preserving order

9.1 Presiding Member to preserve order

- (1) The Presiding Member is to preserve order, and, whenever he or she considers necessary, may call any Member to order.
- (2) When the Presiding Member speaks during a debate, any Member then speaking, or indicating that he or she wishes to speak, is immediately to sit down and every Member present is to preserve strict silence so that the Presiding Member may be heard without interruption.
- (3) Subclause (2) is not to be used by the Presiding Member to exercise the right provided in clause 8.7 , but to preserve order.

9.2 Point of order

- (1) A Member may object, by way of a point of order, only to a breach of:
 - (a) any of these Standing Orders; or
 - (b) any other written law.
- (2) Examples of valid points of order are:
 - (a) a speaker's remarks not being relevant to the motion or amendment being debated (see clause 8.8); and
 - (b) a speaker's use of offensive or objectionable expressions or adverse reflection on a decision of the Council (see clause 8.15).
- (3) Despite anything in these Standing Orders to the contrary, a point of order:
 - (a) takes precedence over any discussion; and
 - (b) until determined, suspends the consideration or discussion of any other matter.

9.3 Procedures on a point of order

- (1) A Member who is addressing the Presiding Member is not to be interrupted except on a point of order.
- (2) A Member interrupted on a point of order is to resume his or her seat until:
 - (a) the Member raising the point of order has been heard; and
 - (b) the Presiding Member has ruled on the point of order,and, if permitted, the Member who has been interrupted may then proceed.

9.4 Calling attention to breach

A Member may, at any time, draw the attention of the Presiding Member to any breach of these Standing Orders.

9.5 Ruling by the Presiding Member

- (1) The Presiding Member is to rule on any point of order which is raised by either upholding or rejecting the point of order.
- (2) A ruling by the Presiding Member on a point of order:
 - (a) is not to be the subject of debate or comment; and
 - (b) is to be final unless the majority of Members then present and voting, on a motion moved immediately after the ruling, dissent from the ruling.
- (3) Subject to a motion of dissent being carried under subclause (2), if the Presiding Member rules that:
 - (a) any motion, amendment or other matter before the meeting is out of order, it is not to be considered further; and
 - (b) a statement made or act done by a Member is out of order, the Presiding Member may require the Member to make an explanation, retraction or apology.

9.6 Continued breach of order

If a Member:

- (a) persists in any conduct that the Presiding Member had ruled is out of order; or
- (b) refuses to make an explanation, retraction or apology required by the Presiding Member under clause 9.5(3),

the Presiding Member may direct the Member to refrain from taking any further part in that meeting, other than by voting, and the Member is to comply with that direction.

9.7 Right of Presiding Member to adjourn

- (1) For the purpose of preserving or regaining order, the Presiding Member may adjourn the meeting for a period of up to 15 minutes.
- (2) On resumption, the debate is to continue at the point at which the meeting was adjourned.
- (3) If, at any one meeting, the Presiding Member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

Part 10 - Debate of substantive motions

10.1 Motions to be stated and in writing

Any Member who wishes to move a substantive motion or an amendment to a substantive motion:

- (a) is to state the substance of the motion before speaking to it; and
- (b) if required by the Presiding Member, is to put the motion or amendment in writing.

10.2 Motions to be supported

- (1) A substantive motion or an amendment to a substantive motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations.

- (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 —

- | |
|--|
| <ul style="list-style-type: none"> (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 one third of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover. <p>(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 —</p> <ul style="list-style-type: none"> (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. <p>(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.</p> <p style="text-align: right;">[Regulation 10 of the Regulations]</p> |
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10.3 Unopposed business

- (1) Immediately after a substantive motion has been moved and seconded, the Presiding Member may ask the meeting if any Member opposes it.
- (2) If no Member opposes the motion, the Presiding Member may declare it carried without debate and without taking a vote.
- (3) A motion declared carried under this clause is to be recorded in the minutes as a unanimous decision of the Council.
- (4) If a Member opposes a motion, the motion is to be dealt with under this Part.
- (5) This clause does not apply to a motion to revoke or change a decision which has been made at a Council meeting (see Part 16).

10.4 Only one substantive motion at a time

When a substantive motion is under debate at a meeting of the Council, no further substantive motion is to be accepted. The Council is not to consider more than one substantive motion at any time.

10.5 Order of call in debate

The Presiding Member is to call speakers to a substantive motion in the following order:

- (a) the mover to state the motion;
- (b) a seconder to the motion;
- (c) the mover to speak to the motion;
- (d) the seconder to speak to the motion;
- (e) a speaker against the motion;
- (f) a speaker for the motion;
- (g) other speakers against and for the motion, alternating where possible; and
- (h) mover takes right of reply which closes debate.

10.6 Limit of debate

The Presiding Member may offer the right of reply and put a substantive motion to the vote if he or she believes that sufficient discussion has taken place even though all Members may not have spoken.

10.7 Member may require question to be read

A Member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other Member who is speaking.

10.8 Consent of seconder required for alteration

The mover of a substantive motion may not alter the wording of the motion without the consent of the seconder.

10.9 Order of amendments

Any number of amendments may be proposed to a substantive motion, but when an amendment is moved to a substantive motion, no second or subsequent amendment is to be moved or considered until the first amendment has been withdrawn, carried or lost.

10.10 Form of an amendment

An amendment must add, delete, or substitute words to the substantive motion.

10.11 Amendment must not negate original motion

An amendment to a substantive motion cannot negate the original motion or the intent of the original motion.

10.12 Relevance of amendments

Each amendment is to be relevant to the motion in respect of which it is moved.

10.13 Mover of motion may speak on amendment

Any Member may speak during debate on an amendment.

10.14 Effect of an amendment

If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion, on which any Member may speak and any further amendment may be moved.

10.15 Withdrawal of motion or amendment

- (1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.
- (2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of Members present, until the amendment proposed has been withdrawn or lost.

10.16 Right of reply

- (1) The mover of a substantive motion has the right of reply.
- (2) The mover of any amendment to a substantive motion does not have a right of reply.
- (3) The right of the reply may only be exercised:
 - (a) where no amendment is moved to the substantive motion – at the conclusion of the discussion on the motion; or
 - (b) where one or more amendments have been moved to the substantive motion – at the conclusion of the discussion on the substantive motion and any amendments.
- (4) After the mover of the substantive motion has commenced the reply:
 - (a) no other Member is to speak on the question;
 - (b) there is to be no further discussion on, or any further amendment to, the motion.
- (5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

Part 11 - Procedural motions

11.1 Permissible procedural motions

In addition to the right to move an amendment to a substantive motion (under Part 10), a Member may move the following procedural motions:

- (a) that the meeting proceed to the next item of business;
- (b) that the debate be adjourned;
- (c) that the meeting now adjourn;
- (d) that the question be now put;
- (e) that the Member be no longer heard;
- (f) that the ruling of the Presiding Member be disagreed with;
- (g) that the meeting be closed to the public (see clause 6.2).

11.2 No debate

- (1) The mover of a motion specified in paragraph (a), (b), (c), (f) or (g) of clause 11.1 may speak to the motion for not more than five 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 specified in paragraph (d) or (e) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

11.3 Who may move

No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move any procedural motion which, if carried, would close the debate on the substantive motion or amendment.

11.4 Procedural motions - right of reply on substantive motion

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

11.5 Meeting to proceed to the next business

The motion “that the meeting proceed to the next business”, if carried, has the effect that:

- (a) the debate on the substantive motion or amendment ceases immediately;
- (b) no decision is made on the substantive motion;
- (c) the Council moves to the next item of business; and
- (d) there is no requirement for the matter to be raised again for consideration.

11.6 Debate to be adjourned

A motion “that the debate be adjourned”:

- (a) is to state the time to which the debate is to be adjourned; and
- (b) if carried, has the effect that all debate on the substantive motion or amendment ceases immediately, but continues at the time stated in the motion.

11.7 Meeting now adjourn

- (1) A Member is not to move or second more than one motion of adjournment during the same sitting of the Council.
- (2) Before putting the motion for the adjournment of the Council, the Presiding Member may seek leave of the Council to deal first with matters that may be the subject of an adoption by exception resolution (see clause 5.5).
- (3) A motion “that the meeting now adjourn”:
 - (a) is to state the time and date to which the meeting is to be adjourned; and
 - (b) if carried, has the effect that the meeting is adjourned to the time and date specified in the motion.
- (4) A meeting adjourned under subclause (3) is to continue from the point at which it was adjourned, unless the Presiding Member or the Council determines otherwise.

11.8 Question to be put

- (1) If the motion “that the question be now put”, is carried during debate on a substantive motion without amendment, the Presiding Member is to offer the right of reply and then put the motion to the vote without further debate.
- (2) If the motion “that the question be now put” is carried during discussion of an amendment, the Presiding Member is to put the amendment to the vote without further debate.
- (3) This motion, if lost, causes debate to continue.

11.9 Member to be no longer heard

If the motion “that the member be no longer heard”, is carried, the speaker against whom the motion has been moved cannot speak further on the current substantive motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the substantive motion.

11.10 Ruling of the Presiding Member to be disagreed with

If the motion “that the ruling of the Presiding Member be disagreed with”, is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

Part 12 - Disclosure of interests

12.1 Disclosure of interests

Members and Officers must deal with all interests and potential conflicts of interest in accordance with the requirements of the Act, the City's Code of Conduct and all other legal obligations.

Part 13 - Voting

13.1 Question - when put

- (1) Immediately after the debate on any question is concluded and the right of reply has been exercised, the Presiding Member -
 - (a) is to put the question to the Council; and
 - (b) if requested by any Member, is to again state the terms of the question.
- (2) A Member is not to leave the meeting when the Presiding Member is putting any question.

13.2 Voting

Voting is dealt with in the Act and the Regulations.

- (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.
- (5) A person who fails to comply with subsection (2) or (3) commits an offence.

[Section 5.21 of the Act]

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

[Regulation 9 of the Regulations]

13.3 Majorities required for decisions

The majorities required for decisions of the Council and committees are dealt with in the Act.

- (1) A decision of a council does not have effect unless it has been made by a simple majority or, if another kind of majority is required under any provision of this Act or has been prescribed by regulations or a local law for the particular kind of decision, by that kind of majority.
- (2) A decision of a committee does not have effect unless it has been made by a simple majority or, if another kind of majority has been prescribed by regulations or a local law for the particular kind of decision, by that kind of majority.
- (3) This section does not apply to elections —
 - (a) by a council of the local government's mayor or president under section 2.11;
 - (b) by a council of the local government's deputy mayor or president under section 2.15; or
 - (c) by a committee of the committee's presiding member or deputy presiding member under section 5.12.

[Section 5.20 of the Act]

13.4 Method of taking vote

- (1) In taking the vote on any motion or amendment the Presiding Member:
 - (a) is to put the question, first in the affirmative, and then in the negative;
 - (b) may put the question in this way as often as may be necessary to enable him or her to determine whether the affirmative or the negative has the majority of votes;
 - (c) may accept a vote on the voices or may require a show of hands; and,
 - (d) is, subject to this clause, to declare the result.
- (2) If a Member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.
- (3) If a member of 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 committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.

- (4) If a Member calls for a division:
 - (a) those voting in the affirmative are to pass to the right of the Chair; and
 - (b) those voting in the negative are to pass to the left of the Chair.
- (5) For every division, the CEO is to record:
 - (a) the name of each member who voted; and
 - (b) whether he or she voted in the affirmative or negative.

Part 14 – Minutes of meetings

14.1 Keeping of minutes

The keeping and confirmation of minutes are dealt with in the Act.

- | |
|---|
| <ol style="list-style-type: none">(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. |
|---|

[Section 5.22 of the Act]

14.2 Content of minutes

- (1) The content of minutes is dealt with in the Regulations.

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;
- (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);
- (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.

[Regulation 11 of the Regulations]

- (2) In addition to the matters required by regulation 11, the minutes of a Council meeting is to include, where an application for approval is refused or the authorisation of a licence, permit or certificate is withheld or cancelled, the reasons for the decision.

14.3 Public inspection of unconfirmed minutes

The public inspection of unconfirmed minutes is dealt with in the Regulations.

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.

[Regulation 13 of the Regulations]

14.4 Confirmation of minutes

- (1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a Member is dissatisfied with the accuracy of the minutes, the Member may provide the City with a written copy of the alternative wording to

amend the minutes no later than 7 clear working days before the next ordinary meeting of the Council.

- (2) At the next ordinary meeting of the Council, the Member who provided the alternative wording shall, at the time for confirmation of minutes -
 - (a) state the item or items with which he or she is dissatisfied; and
 - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

Part 15 - Adjournment of meeting

15.1 Meeting may be adjourned

The Council may adjourn any meeting:

- (a) to a later time on the same day; or
- (b) to any other time on any other day, including a time which coincides with the conclusion of another meeting or event.

15.2 Effect of adjournment

Where any matter, motion, debate or meeting is adjourned under these Standing Orders:

- (a) the names of Members who have spoken on the matter prior to the adjournment are to be recorded in the minutes;
- (b) debate is to be resumed at the next meeting at the point where it was interrupted; and
- (c) the provisions of clause 8.9 [speaking twice] apply when the debate is resumed.

Part 16 – Revoking or changing decisions

16.1 Requirements to revoke or change decisions

The requirements to revoke or change a decision made at a meeting are dealt with in regulation 10 of the Regulations.

- (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.
- [Regulation 10 of the Regulations]

16.2 Limitations on powers to revoke or change decisions

- (1) Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision:
 - (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 16.3 to implement the decision; or
 - (b) where the decision is procedural in its form or effect.
- (2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

16.3 Implementing a decision

- (1) In this clause:
 - (a) "authorisation" means a licence, permit, approval or other means of authorising a person to do anything;
 - (b) "implement", in relation to a decision, includes:
 - (i) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
 - (ii) take any other action to give effect to the decision; and
 - (c) "valid notice of revocation motion" means a notice of motion to revoke or change a decision that complies with the requirements of the Act, Regulations and the Standing Orders and may be considered, but has not yet been considered, by the Council or a committee as the case may be.
- (2) Subject to subclause (4), and unless a resolution is made under subclause (3), a decision made at a meeting is not to be implemented by the CEO or any other person until the afternoon of the first business day after the commencement of the meeting at which the decision was made.
- (3) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, direct the CEO or another person to take immediate action to implement the decision.
- (4) A decision made at a meeting is not to be implemented by the CEO or any other person:
 - (a) if, before commencing any implementation action, the CEO or that person is given a valid notice of revocation motion; and
 - (b) unless and until the valid notice of revocation motion has been determined by the Council or the committee as the case may be.
- (5) The CEO is to ensure that members of the public attending the meeting are informed by an appropriate notice that a decision to grant an authorisation:
 - (a) is to take effect only in accordance with this clause; and
 - (b) cannot be acted upon by the person who has been granted the authorisation unless and until the decision has been implemented in accordance with this clause.

Part 17 - Suspension of Standing Orders

17.1 Suspension of Standing Orders

- (1) A Member may at any time move that the operation of one or more of the provisions of these Standing Orders be suspended.
- (2) A Member moving a motion under subclause (1) is to state the reasons for the motion but no other discussion is to take place.
- (3) A motion under subclause (1) which is:
 - (a) seconded; and
 - (b) carried by an absolute majority,is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

17.2 Where Standing Orders do not apply

- (1) In situations where:
 - (a) one or more provisions of these Standing Orders have been suspended; or
 - (b) a matter is not regulated by the Act, the Regulations or these Standing Orders,the Presiding Member is to decide questions relating to the conduct of the meeting.
- (2) The decision of the Presiding Member under subclause (1) is final, except where a motion is moved and carried under clause 11.10.

17.3 Cases not provided for in Standing Orders

The Presiding Member is to decide questions of order, procedure, debate, or otherwise in cases where these Standing Orders, the Act or the Regulations are silent. The decision of the Presiding Member in these cases is final, except where a motion is moved and carried under clause 11.10.

Part 18 - Meetings of electors

18.1 Electors' general meetings

Electors' general meetings are dealt with in the Act.

- | | |
|-----|---|
| (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. |
- [Section 5.27 of the Act]

18.2 Matters for discussion at electors' general meetings

The matters to be discussed at electors' general meetings are dealt with in the Regulations.

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.
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[Regulation 15 of the Regulations]

18.3 Electors' special meetings

Electors' special meetings are dealt with in the Act.

- | | |
|-----|--|
| (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) | 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. |
- [Section 5.28 of the Act]

18.4 Requests for electors' special meetings

Requests for electors' special meetings are dealt with in the Regulations.

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

[Regulation 16 of the Regulations]

18.5 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

- | | |
|-----|---|
| (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. |
- [Section 5.29 of the Act]

18.6 Who presides at electors' meetings

Who presides at electors' meetings is dealt with in the Act.

- | | |
|-----|--|
| (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. |
- [Section 5.30 of the Act]

18.7 Procedure for electors' meetings

- (1) The procedure for electors' meetings is dealt with in the Act and the Regulations.

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.

[Section 5.31 of the Act]

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.

[Regulation 18 of the Regulations]

- (2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the Presiding Member is to have regard to these Standing Orders.

18.8 Participation of non-electors

A person who is not an elector of the City shall not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits the person do so.

18.9 Voting at electors' meetings

Voting at electors' meetings is dealt with in the Regulations.

- (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.

[Regulation 17 of the Regulations]

Note: Only a person who is an elector of the City can vote at an electors' meeting - 'elector' means a person who is eligible to be enrolled to vote at elections for the district or ward - see section 1.4 of the Act.

18.10 Minutes of electors' meetings

Minutes of electors' meetings are dealt with in the Act.

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.

[Section 5.32 of the Act]

18.11 Decisions made at electors' meetings

Decisions made at electors' meetings are dealt with in the Act.

- (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.

[Section 5.33 of the Act]

Part 19 – Briefings and other informal meetings

19.1 Briefings and other informal meetings

- (1) The Council may conduct briefings, workshops and other informal meetings.
- (2) Where the Council conducts briefings, workshops and other informal meetings, the CEO is to:
- (a) advise all Members of the time, date and place of the meeting; and,
- (b) cause notes of the meeting to be kept.

- (3) A Member who has an interest in a matter to be discussed at a briefing, workshop or other informal meeting is to deal with the interest in accordance with the provisions of Part 12 of these Standing Orders.
- (4) The Council is not to make a formal resolution at any meeting other than at a Council meeting or at a meeting of a committee which has delegated authority to do so.
- (5) The Council is not to meet except at:
 - (a) a Council or committee meeting;
 - (b) a briefing, workshop or informal meeting under this clause; or
 - (d) a meeting to hear public submissions convened under clause 6.13.

Part 20 - Enforcement

20.1 Penalty for breach

A person who breaches a provision of these Standing Orders commits an offence.

Penalty: \$5,000.00 and a daily penalty of \$500.00.

20.2 Who can prosecute

Who can prosecute is dealt with in the Act.

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.

[Section 9.24(2) of the Act]

Part 21 - Common Seal

21.1 City's Common Seal

- (1) The CEO is responsible for the safe custody and proper use of the common seal of the City.
- (2) Each document to which the common seal is affixed must be signed by the CEO or an Officer authorised in writing by the CEO.
- (3) The common seal is to be affixed to any local law which is made by the City.
- (4) On each occasion the common seal is affixed to a document, the CEO is to have recorded in a register maintained for the purpose -
 - (i) the date the common seal was affixed;
 - (ii) the nature of the document; and
 - (iii) the parties described in the document.
- (5) A person who uses the common seal of the City or a replica without authority commits an offence.

Dated: -----

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

Mr John Collins JP
Mayor

Mr Cliff Frewing
Chief Executive Officer



POLICY P518

Management of Corporate Records

Relevant Management Practice

Nil

Strategic Plan Goal

Goal 5: Organisational Effectiveness

Relevant Delegation

Nil

Rationale

Records are recognised as an important information resource of our organisation. The soundness of the City's record management practices significantly impacts upon the effectiveness and efficiency of the City's administration of its powers and functions.

The *State Records Act 2000* and other applicable legislation requires the City to maintain a record management system that completely, accurately and reliably creates and maintains evidential records and permits the disposal of those records only through an approved scheme.

A cornerstone of the legislation is an instrument of accountability known as a "record-keeping plan". The plan, which must be formulated by every local government, is a document which sets out the matters about which records are to be created, how they are to be managed and how long they are to be kept.

This policy describes the principles of the City's record management function and documents an orderly and efficient approach to the management of records in a manner consistent with applicable legislative requirements.

Policy

The City's records are to be managed as a corporate asset. Complete and accurate records of all business decisions and transactions are to be registered and maintained in the City's Record Management Systems in respect to both their context and content. Records are to be managed in a cost effective manner and in accordance with the relevant legislative requirements.

This policy applies to all external and internal records which are handled, received or generated by the City, its employees or elected members, regardless of the physical format or media type of the records.

All records are to be managed according to:

- their classification as 'significant' or 'ephemeral;'
- their classification as 'vital' or 'non vital'; and
- their security classification.

Registers are to be maintained of all records series and special categories including, but not limited to:

- Policies, Management Practices and Delegations
- Statutory Records under section 5.94 of the *Local Government Act*; that is, local government information which the public can inspect
- Freedom of Information Applications

- Tenders and Quotations
- Assets and Property Ownership including dealings in property
- Applications, Decisions and Approvals
- Contracts and Deeds
- Corporate Databases
- Plans & Diagrams
- Personnel and Payroll Records
- Correspondence

Only approved record formats are to be used to create City records.

Record keeping formats and media are required to be reviewed at least once in every five years to ensure that they remain suitable – having regard to accessibility, security of storage, retrievability, cost effectiveness and comparison with contemporary practices.

Staff who acquire or create any records in the course of business do not retain any proprietary interest in the records or the processes associated with creating them. Records are a government asset vested in the City.

All contractual arrangements undertaken by the City which are likely to result in third parties creating ‘significant’ records are to provide for third parties to transfer possession of those records to the City.

All records and files are to be maintained in the City’s Record Management System. They may be loaned to individual officers. Each loan must be registered to the officer who must, dependent upon the security classification, keep the record accessible.

Records are not to be removed from the City’s sites unless this is in accordance with the approved Retention & Disposal Schedule, or the records are in the custody of an officer performing official business.

All records within record keeping series maintained by the City are to be disposed of in accordance with the State Records Office General Disposal Schedule for Local Government Records.

The roles and responsibilities of Elected Members and the City’s Officers

Elected Members

Elected members are to create and maintain records relating to their role in a manner consistent with the relevant legislation and management practices for the management of records. Personal records, ephemeral records and political material are exempt from these requirements.

City Officers

All staff are to create and retain records relating to the business function they perform. They are to identify ‘significant’ and ‘ephemeral’ records and to ensure that ‘significant’ records are registered in the Records Management Systems. Protection and disposal of these records shall be in accordance with the State Records Office General Disposal Schedule for Local Government Records.

Definitions

Record

A record is recorded information, regardless of its medium or characteristics. It records business decisions, transactions or a state of knowledge and is generated as part of a business process. Examples include correspondence, electronic documents, forms, electronic messages, plans, photographs, drawings, audio visual materials etc.

Records created by a public officer in the course of their duties become public records regardless of whether the communication is between staff in the same agency, between different agencies or between public officers and members of the community

Significant Records

Such records contain information which is of administrative, legal, fiscal, evidential or historical value which is not recorded elsewhere on the public record. They typically describe an issue, who was involved, record why a decision was made and may embody actual guidelines.

Ephemeral Records

These are either duplicated records or those having only short term value to the organisation with little or no ongoing administrative, legal, fiscal, evidential or historical value. This may include insignificant drafts, rough notes and records of routine enquiries.

Vital Records

These records are essential to the continuing business of the City. These include those that protect the rights of individuals and the City and are absolutely essential for reconstruction in the event of a disaster.

Non-Vital Records

These relate to documents generally available in the public domain and do not form part of the City's business processes. They are generally used for reference and information purposes and may include documents from other organisations, published directories and third party training manuals.

Note: The distinction between significant and ephemeral records is a matter of judgement and the preceding definitions may be used as a guide. References to 'records' in the Policy document should be taken as a reference to significant public records unless otherwise explicitly stated.

Other Relevant Legislation

In addition to the requirements of the *State Records Act 2000*, records and information professionals should also be aware of other legislation which applies to the proper management of Local Government records. In particular, the following State Acts may apply:

Criminal Code Act 1913

Under the *Criminal Code Act 1913* (Section 85) any public officer found guilty of falsifying records by making false entries, omitting to make an entry, damage or destruction, can incur penalties, including imprisonment.

Evidence Act 1906 and Acts Amendment (Evidence) Act 2000

These Acts include requirements for records where they are produced as evidence. The *Evidence Act 1906* has implications for the destruction of records and the requirements for creating acceptable reproductions.

The *Acts Amendment (Evidence) Act 2000* expands upon the best evidence provisions of the original Act to facilitate the admission of documentary evidence created using modern information technology.

Financial Administration and Audit Act 1985

This Act includes requirements for the management of financial and accounting records.

Freedom of Information Act 1992

The FOI Act prescribes rights and procedures for access to documents held by Government agencies and includes recordkeeping requirements. Once a request for access under the FOI Act has been lodged all files relevant to that request, regardless of whether they are due for destruction, must be identified and preserved until action on the request and on any subsequent reviews by the Information Commissioner or the Supreme Court are completed.

Limitation Act 1935-1978

Limitations have been set by law on periods within which court actions can be initiated by an offending party. Once the period has expired the party sustaining loss or injury cannot sue, and the party causing loss or injury is no longer held accountable. It is therefore expedient for organisations to select and keep those records that might be useful in the event of having to prosecute or defend an action, for the period of limitation.

Other Relevant Documents

Record-keeping Plan 2004 - 2009

Other Relevant Policies

Nil

This policy was adopted by resolution of Council meeting in June 2003 and was reviewed and adopted by resolution of Council meeting in October 2006.



Strategic Plan Goal

Goal 5: Organisational Effectiveness

POLICY P519

Legal Representation

Relevant Management Practice

Nil

Relevant Delegation

Nil

Rationale

Elected Members and employees of the City performing their statutory roles and functions, may occasionally in the course of their duties, be exposed to legal action initiated by third parties.

In these circumstances Members and employees may require legal advice and/or representation and should be able to expect that their local government will provide financial assistance to meet the cost of the advice or representation. Accordingly, it is appropriate and prudent for the City to be in a position to assist members and employees by adopting a policy to fund or partly fund the cost of providing legal services in appropriate circumstances.

Legislative Framework

Section 9.56 of the *Local Government Act 1995* (the Act) provides protection from actions of tort for anything a council member or employee has, in good faith, done in the performance or purported performance of a function under the Act or under any other written law. However, the legislation does not preclude people taking action against individual council members or employees if they believe that the council member or employee has not acted in good faith.

Section 3.1 of the Act provides that the general function of a local government is to provide for the good government of persons in its district. Section 6.7(2) provides that money held in the municipal fund may be applied towards the performance of the functions and the exercise of the powers conferred on the local government by the Act or any other written law. Under these provisions a local government can expend funds to provide legal representation for council members and employees as long as it believes that the expenditure falls within the scope of the local government's function.

Policy

1. Criteria for determining application for legal representation

There are four criteria for determining whether an application for the payment of the legal representation costs of a council member or employee will be approved:

- (a) the legal representation costs must relate to a matter that arises from the performance, by the member or employee, of his or her functions;
- (b) the legal representation costs must be in respect of legal proceedings that have been, or may be, commenced;
- (c) in performing his or her functions, to which the legal representation relates, the member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (d) the legal representation costs do not relate to a matter that is of a personal or private nature.

2. Examples of legal representation costs that may be approved

If the criteria in clause 1 are satisfied, approval may be given for the payment of legal representation costs –

- (a) where legal proceedings are brought against a council member or employee in connection with his or her functions – for example, an action for defamation or negligence arising out of a decision made or action taken by the council member or employee; or
- (b) to enable proceedings to be commenced and/or maintained by a council member or employee to permit him or her to carry out his or her functions - for example where a council member or employee seeks to take action to obtain a restraining order against a person using threatening behaviour to the council member or employee; or
- (c) where exceptional circumstances are involved – for example, where a person or organisation is lessening the confidence of the community in the local government by publicly making adverse personal comments about council members or employees.

3. Application

- 3.1 An application by a council member, or the CEO, must be made in writing to the Council which may approve or decline the application.
- 3.2 An application by an employee must be made in writing to the CEO who may approve or decline the application.
- 3.3 The application must give details of –
 - (i) the matter for which legal representation is sought;
 - (ii) how that matter relates to the functions of the member or employee making the application;
 - (iii) the nature of the legal representation being sought (such as advice, representation in court, preparation of documents etc);
 - (iv) the lawyer (or law firm) who is to be requested to provide the legal representation;
 - (v) an estimate of the cost of the legal representation; and
 - (vi) why it is in the interests of the City for payment to be made.
- 3.4 The application must contain a declaration by the applicant that he or she has acted in good faith and has not acted unlawfully or in a way that constitutes improper conduct in relation to the matter to which the application relates.
- 3.5 As far as possible the application is to be made before commencement of the legal proceedings to which the application relates.
- 3.6 The application must be accompanied by a statement signed by the applicant that he or she –
 - (a) has read and understands the terms of this Policy;
 - (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of clause 6 and any other conditions to which the approval is subject; and
 - (c) undertakes to repay to the City any legal representation costs in accordance with clause 6.
- 3.6 In relation to clause 3.6(c), a person who receives payment of legal representation costs shall sign a document acknowledging that repayment may be required by the City under the terms of this Policy.
- 3.7 An application must be accompanied by a report prepared by the CEO or where the CEO is the applicant by an appropriate employee nominated by the Mayor.

4. Limit on Legal representation costs

- 4.1 When approving an application the Council or CEO shall set a limit on the amount of costs to be paid, based on the nature of the matter and on the estimate of costs in the application.
- 4.2 A council member or employee may make a further application to the Council or CEO in respect of the same matter.

5. Assessing Application

- 5.1 The Council or CEO may –
- (a) refuse;
 - (b) grant; or
 - (c) grant subject to conditions,
- an application for payment of legal representation costs.
- 5.2 Conditions under clause 5.1 may include, but are not restricted to, a financial limit and/or a requirement to enter into a formal agreement, including a security agreement, relating to the payment and repayment of legal representation costs.
- 5.3 In assessing an application, the Council or CEO may have regard to any insurance benefits that may be available to the applicant under the City's council members or employees insurance policy or its equivalent.
- 5.4 The Council or CEO may at any time revoke or vary an approval, or any conditions of approval, for the payment of legal representation costs.
- 5.5 The Council or CEO may determine, after an application has been approved, that a council member or employee:
- (a) has not acted in good faith, has acted unlawfully or has acted in a way that constitutes improper conduct; or
 - (b) has given false or misleading information in respect of the application.
- 5.6 A determination under clause 5.5 may be made by the Council or CEO on the basis of and consistent with the findings of any court of competent jurisdiction, the State Administrative Tribunal or of an inquiry conducted pursuant to Part 8 of the *Local Government Act*.
- 5.7 Where a determination is made under clause 5.5, the legal representation costs paid by the City are to be repaid by the council member or employee in accordance with clause 6.

6. Repayment of legal representation costs

- 6.1 A council member or employee whose legal representation costs have been paid by the City is to repay the City –
- (a) all or part of those costs – in accordance with a determination by the Council or CEO under clause 5.5; or
 - (b) as much of those costs as are available to be paid by way of set-off – where the council member or employee receives monies paid for costs, damages, or settlement, in respect of the matter for which the City paid the legal representation costs.
- 6.2 The City may take action in any court of competent jurisdiction to recover any monies due to it under this Policy.

Definitions

approved lawyer means a ‘certified practitioner’ (as defined in the *Legal Practice Act 2003*) who is from a law firm on the City’s panel of legal service providers, unless the Council or CEO considers that this is not appropriate – for example, where there is or may be a conflict of interest;

City means the City of South Perth;

council member means a current council member;

employee means a current employee of the City;

improper conduct means a breach of the standards of conduct that a reasonable person would expect of a person knowing their duties, powers and authority;

legal proceedings may be civil or criminal;

legal representation means the provision of legal services, to or on behalf of a council member or employee, by an approved lawyer that is in respect of –

- (a) a matter or matters arising from the performance of the functions of the council member or employee; and
- (b) legal proceedings involving the council member or employee that have been, or may be, commenced.

legal representation costs are the costs, including fees and disbursements, properly incurred in providing legal representation;

legal services includes advice, representation or documentation that is provided by an approved lawyer.

Other Relevant Documents

Department of Local Government Operational Guidelines No. 14 - *Legal Representation for Council Members and Employees*.

Other Relevant Policies

Nil

This Policy was adopted by a resolution of Council meeting in October 2006 and replaces the former policy on Legal Representation which was adopted by Council in June 2003.



POLICY P606

Continuous Disclosure of Financial Interests

Relevant Management Practice

Nil

Strategic Plan Goal

Goal 6: Financial Viability

Relevant Delegation

Nil

Rationale

The *Local Government Act 1995* sets out the requirements for the disclosure of financial interests by elected members and 'designated employees' (that is, an employee with delegated authority). The financial interests of an elected member or designated employee must be disclosed in either a Primary Return upon commencement or in an Annual Return which must be submitted by or before 31 August each year, relating to the financial interests held by the person in the previous financial year.

In order to enhance openness and accountability in the administration and governance of the City this policy sets out standards that exceed the statutory requirements.

Policy

When an elected member or designated employee has a change in circumstances relating to a financial interest recorded in their current return, they will notify the CEO in writing of the change at the time when the change occurs or shortly thereafter.

When the CEO has a change in either of the circumstances outlined above, then he or she will notify the Mayor in writing of the change at the time when the change occurs or shortly thereafter.

Other Relevant Documents

Code of Conduct
Standing Orders Local Law 2002
M523 Financial Interests Returns

Other Relevant Policies

Nil

This Policy was adopted by resolution of Council meeting in October 2006.



MANAGEMENT PRACTICE M523

Financial Interest Returns

Strategic Plan Goal

Goal 5: Organisational Effectiveness

Relevant Policy

Nil

Relevant Delegation

Nil

Rationale

The *Local Government Act 1995* (the Act) requires newly-elected Council members and 'designated employees' (ie. employees with a power of delegation) to lodge a primary return within three months of the commencement of their term of office or employment; and the lodgment of an annual return for each financial year thereafter. Annual returns must be lodged with the CEO by or before 31 August each year.

This Management Practice describes the procedure to be followed for the lodging of such returns so as to facilitate compliance with the statutory requirements. A failure to comply is a notifiable event pursuant to the *Corruption and Crime Commission Act 2003*.

Legislative Framework

Section 5.75 of the Act provides that a designated employee, that is, an employee who has delegated power, must lodge a primary return with the CEO within three months of commencing in the position to which the delegated power is attached. The same requirement applies to newly-elected councillors.

Thereafter, section 5.76 of the Act provides that council members and designated employees must lodge an annual return with the CEO with respect to each financial year by 31 August of that year.

Section 5.77 requires the CEO to give each person who lodges a return a written acknowledgement of having received the return.

Section 5.88 requires the CEO to keep a register of financial interests which is to contain the returns lodged under sections 5.75 and 5.76.

The returns are available for public inspection: see section 5.94(b) of the Act.

Procedure for Primary Returns

Within one month after the election of a council member, the CEO will write to the member enclosing a copy of a primary return with instructions on the statutory requirements for the lodging of the return.

Within one month after the commencement of employment of a designated employee, the CEO will write to the employee enclosing a copy of a primary return with instructions on the statutory requirements for the lodging of the return.

Procedure for Annual Returns

Shortly after 30 June each year, the CEO will write to Council members and designated employees enclosing a copy of the Annual Return and outlining the process for submitting the return and advising that the returns should be lodged by 25 August.

At the end of July each year the CEO will ensure that any Council member or designated employee who has not lodged a return by that time will receive a reminder about the need to submit their return.

Each Council member and designated employee, other than the CEO, must lodge their return directly with the CEO. The CEO shall ensure that the date when the return is received in his or her office is recorded on the return.

The CEO must lodge his or her return directly with the Mayor by 31 August each year. The Mayor shall ensure that the date when the return is received in his or her office is recorded on the return.

Acknowledgement of Returns

The CEO, and Mayor as applicable, shall give each person who lodges a return, a written acknowledgement within 14 days of receiving the return. The acknowledgement letter should specify the date on which the return was received.

Reporting to Council

The CEO shall prepare a report to Council on the lodging of returns as soon as reasonably practicable after 31 August each year.

Other Relevant Documents

Nil

Other Relevant Policies

P606 Continuous Financial Disclosure

This Management Practice was approved by EMT at its meeting on xx November 2006.