

This is not the official version of the local law published in *Government Gazette* (No. 184) on 14 October 2013.

This version of the local law contains provisions of the Act, Regulations, Rules of Conduct and the City's Code of Conduct that have been reproduced in a boxed format as notes.

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.

Local Government Act 1995

City of Joondalup

Meeting Procedures Local Law 2013

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SCHEDULE 1 **78**

Local Government Act 1995

City of Joondalup

Meeting Procedures Local Law 2013

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Joondalup resolved on 20 August 2013 to make the *City of Joondalup Meeting Procedures Local Law 2013*.

Part 1 - Preliminary

1.1 Citation

This local law may be cited as the *City of Joondalup Meeting Procedures Local Law 2013*.

1.2 Commencement

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

1.3 Purpose and effect

- (1) The purpose of these Meeting Procedures is to provide the rules that apply to the conduct of meetings of the Council and its committees and to meetings of electors.
- (2) The effect of these Meeting Procedures are intended to result in -
 - (a) better decision making by the Council and its committees;
 - (b) the orderly conduct of meetings dealing with Council business;
 - (c) better understanding of the process of conducting meetings; and
 - (d) more efficient and effective use of time at meetings.

1.4 Application

All meetings are to be conducted in accordance with the Act, the Regulations, the Rules of Conduct Regulations and this local law.

Note: Throughout these Meeting Procedures provisions of the Act, Regulations, Rules of Conduct and the City's Code of Conduct are reproduced in a boxed format.

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

The reproduced provisions of the Act, Regulations, Rules of Conduct or the City's Code of Conduct are to be treated as footnotes and are not part of these Meeting Procedures and reproduce only the provisions that were in force at the time Council resolved to make these Meeting Procedures. While all attempts will be made to ensure the reproduced provisions are correct, they may not necessarily be correct at a future date.

1.5 Interpretation

In this local law, unless the context requires otherwise -

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]

Act means the *Local Government Act 1995*;

amendment, in relation to a motion, means an amendment motion which does not alter the basic intent of the primary motion to which the amendment applies;

CEO means the Chief Executive Officer or Acting Chief Executive Officer for the time being of the local government;

committee means a committee of the Council (established under clause 15.1 of this local law);

Council means the Council of the local government;

Councillor has the meaning given to it in the Act;

Councillor means a person who holds the office of councillor on a council (including a person 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]

Deputy Mayor means the deputy mayor of the local government;

elector has the meaning given to it in the Act;

elector in relation to a district or ward, means a person who is eligible to be enrolled to vote at elections for the district or ward.

employee has the meaning given to it in the Act;

employee means a person employed by a local government under section 5.36.

[Section 1.4 of the Act]

local government means the City of Joondalup;

Mayor means the mayor of the local government;

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

member in respect of -

- (a) the Council, has the meaning given to it under the Act; and
- (b) a committee, means a person appointed under section 5.10 of the Act;

member means:

in relation to the council of the local government -

- (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]

Minister means the Minister responsible for administering 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;

primary motion means an original motion, or an original motion as amended, but does not include an amendment or a procedural motion;

revocation motion means a motion to revoke or change a decision made at a Council or committee meeting under clause 13.2;

Note: Section 5.25(1)(e) of the Act states –

5.25. Regulations about council and committee meetings and committees

- (1) Without limiting the generality of section 9.59, regulations may make provision in relation to -

- (e) the circumstances and manner in which a decision made at a council or a committee meeting may be revoked or changed (which may differ from the manner in which the decision was made);

Regulation 10 of the *Local Government (Administration) Regulations 1996* states -

10. Revoking or changing decisions made at council or committee meetings — s. 5.25(1)(e)

- (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 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 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 decision must be made 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.

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

Rules of Conduct Regulations means the *Local Government (Rules of Conduct) Regulations 2007*;

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

special majority has the meaning given to it in the Act.

1.6 Repeal

The *City of Joondalup Standing Orders Local Law 2005* published in the *Government Gazette* on 20 December 2005, is repealed.

Part 2 - Calling and convening meetings

2.1 Ordinary and special Council meetings

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

Note: Section 5.3 of the Act states -

5.3. Ordinary and special council meetings

- (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.
- (3) If a council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.

- (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.

2.2 Calling Council meetings

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

Note: Section 5.4 of the Act states -

5.4. Calling council meetings

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.

2.3 Convening Council meetings

The convening of a Council meeting is dealt with in the Act.

Note: Section 5.5 of the Act states -

5.5. Convening council meetings

- (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.

Sections 9.50 to 9.54 of the *Local Government Act 1995* and sections 75 and 76 of the *Interpretation Act 1984* 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;
- (b) sending it by post to the last known address of the member; or
- (c) leaving it for the member at his or her usual or last known place of abode or, if he or she is the principal of a business, at his or her usual or last known place of business.

2.4 Calling committee meetings

A meeting of a committee is to be held -

- (a) if called for in a written request to the CEO by the presiding member of the committee, advising the date and purpose of the proposed meeting;
- (b) if called for by at least 1/3 of the members of the committee in a written request to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) in accordance with a decision of the Council or the committee.

2.5 Convening committee meetings

- (1) The CEO is to convene an ordinary meeting of a committee by giving each 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 of a committee by giving each member notice, before the meeting, of the date, time, place and an agenda for the meeting.
- (3) The CEO is to give notice of meetings referred to in subclauses (1) and (2) to every member of the Council.

2.6 Public notice of meetings

Public notice of meetings is dealt with in the Regulations.

Note: Regulation 12 of the *Local Government (Administration) Regulations 1996* states -

12. Meetings, public notice of (Act s. 5.25(1)(g))

- (1) In this regulation –
 - meeting details**, for a meeting, means the date and time when, and the place where, the meeting is to be held.
- (2) The CEO must publish on the local government's official website the meeting details for the following meetings before the beginning of the year in which the meetings are to be held –
 - (a) ordinary council meetings;

- (b) 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.
- (3) Any change to the meeting details for a meeting referred to in subregulation (2) must be published on the local government's official website as soon as practicable after the change is made.
- (4) If a local government decides that a special meeting of the council is to be open to members of the public, the CEO must publish the meeting details for the meeting and the purpose of the meeting on the local government's official website as soon as practicable after the decision is made.

Part 3 - Presiding member and quorum

3.1 Who presides at Council meetings

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

Note: Section 5.6 of the Act states -

5.6. Who presides at council meetings

- (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.

3.2 When the Deputy Mayor can act

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

Note: Section 5.34 of the Act states -

5.34. When deputy mayors and deputy presidents can 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.



3.3 Who acts if no Mayor or Deputy Mayor

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

Note: Section 5.35 of the Act states -

5.35. Who acts if no mayor, president or deputy

(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 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.

3.4 Election of presiding members of committees

The election of presiding members of committees is dealt with in the Act.

Note: Section 5.12 (1) of the Act states –

5.12. Presiding members and deputies, election of

(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”; and
- (b) to “council” were references to “committee”; and
- (c) to “councillors” were references to “committee members”.

Note: Clauses 2 to 5 of Schedule 2.3 of the Act states –

2. When the council elects 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.
- (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.

3. CEO to preside

The CEO is to preside at the meeting until the office is filled.

4. How mayor or president is elected

- (1) The council is to elect a councillor to fill the office.
- (2) The election is to be conducted by the CEO in accordance with the procedure prescribed.
- (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.
- (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.
- (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.
- (5) The councillors are to vote on the matter by secret ballot as if they were electors voting at an election.
- (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.
- (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.

5. Votes may be cast a second time

- (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.
- (2) Any nomination for the office may be withdrawn, and further nominations may be made, before or when the meeting resumes.
- (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.
- (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.

3.5 Election of deputy presiding members of committees

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

Note: Section 5.12 (2) of the Act states –

5.12. Presiding members and deputies, election of

- (2) The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule —
- (a) to “office” were references to “office of deputy presiding member”; and
 - (b) to “council” were references to “committee”; and
 - (c) to “councillors” were references to “committee members”; and
 - (d) to “mayor or president” were references to “presiding member”.

Note: Clauses 6 to 9 of Schedule 2.3 of the Act states –

6. Terms used

In this Division —

extraordinary vacancy means a vacancy that occurs under section 2.34(1);

office means the office of deputy mayor or deputy president.

7. When council elects deputy mayor or deputy president

- (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 —
- (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.
- (2) If the local government has a councillor mayor or president the office of deputy mayor or deputy president is to be filled —
- (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
 - (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.
- (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.

8. How deputy mayor or deputy president is elected

- (1) The council is to elect a councillor (other than the mayor or president) to fill the office.

- (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.
- (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.
- (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.
- (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.
- (5) The council members are to vote on the matter by secret ballot as if they were electors voting at an election.
- (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.
- (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.

9. Votes may be cast a second time

- (1) If, when the votes cast under clause 8(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, not more than 7 days later, a special meeting of the council is to be held.
- (2) Any nomination for the office may be withdrawn, and further nominations may be made, before or when the special meeting is held.
- (3) When the special meeting is held the council members are to vote again on the matter by secret ballot as if they were voting at an election.
- (4) The votes cast under subclause (3) are to be counted, and the successful candidate determined, under Schedule 4.1 as if those votes were votes cast at an election.

3.6 Functions of deputy presiding members

The functions of deputy presiding members are dealt with in the Act.

Note: Section 5.13 of the Act states –

5.13. Deputy presiding members, functions of

If, in relation to the presiding member of a committee —

- (a) the office of presiding member is vacant; or

- (b) the presiding member is not available or is unable or unwilling to perform the functions of presiding member,
- then the deputy presiding member, if any, may perform the functions of presiding member.

3.7 Who acts if no presiding member or deputy presiding member

Who acts if no presiding member or deputy presiding member is dealt with in the Act.

Note: Section 5.14 of the Act states –

5.14. Who acts if no presiding member

If, in relation to the presiding member of a committee —

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

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

3.8 Quorum for meetings

The quorum for meetings is dealt with in the Act.

Note: Section 5.19 of the Act states –

5.19. Quorum for meetings

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.

3.9 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.

Note: Section 5.7 of the Act states –

5.7. Minister may reduce number for quorum and certain majorities

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

3.10 Reduction of quorum for committee meetings

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

Note: Section 5.15 of the Act states –

5.15. Reduction of quorum for committees

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.*

3.11 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.

Note: Regulation 8 of the *Local Government (Administration) Regulations 1996* states –

8. No quorum, procedure if (Act s. 5.25(1)(c))

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; or
- (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; or
- (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; or
- (d) if only one member is present, by that member; or
- (e) if no member is present or if no member other than the CEO is present, by the CEO or a person authorised by the CEO.

3.12 Procedure where quorum not present during a meeting

(1) If at any time during a meeting a quorum is not present –

- (a) the presiding member is immediately to suspend the proceedings of the meeting for a period of up to 15 minutes;
- (b) if a quorum is not present at the expiry of the suspension period under subclause (1)(a), the presiding member may either adjourn the meeting to some future time or date or may extend the extension period for a further period of 30 minutes; and
- (c) if a quorum is not present at the expiry of the extended period of suspension under subclause (1)(b), the presiding member is to adjourn the meeting to a later time on the same day or to another day.

- (2) Where debate on any motion is interrupted at a meeting, which has been adjourned due to a lack of a quorum, that debate is to be resumed at the resumption of the meeting at the point where it was interrupted.
- (3) The members who have spoken on the motion at the adjourned meeting, must not speak again on resumption of that meeting, except the mover who retains the right of reply.

3.13 Names to be recorded

At any meeting -

- (a) at which there is not a quorum present to begin the meeting; or
- (b) which is adjourned under clause 3.12,

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

Part 4 - Business of a meeting

4.1 Business to be specified in agenda

- (1) No business is to be transacted at any ordinary meeting of the Council or committee other than that specified in the agenda, except matters which the Act or clause 4.7 permits to be dealt with.
- (2) No business is to be transacted at a special meeting of the Council or a committee other than that specified in the agenda, and to which notice as to the purpose of the meeting has been given.
- (3) No business is to be transacted at an adjourned meeting of the Council or a committee other than that -
 - (a) specified in the agenda of the meeting which had been adjourned; and
 - (b) which remains unresolved,except in the case of an adjournment to the next ordinary meeting of the Council or the committee, when the business unresolved at the adjourned meeting is to be the first business to be considered at that ordinary meeting.
- (4) Despite subclauses (1) to (3), the CEO may include on the agenda of a Council or committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriate to be decided, by that meeting.
- (5) The CEO may withdraw an item from the agenda of a meeting.

4.2 Meeting to proceed to business

A meeting is to proceed to business as soon after the time stated in the notice as a quorum is constituted.

4.3 Order of business

- (1) Unless otherwise decided by the Council, the order of business at an ordinary meeting of the Council is to be as follows:
 - (a) Declaration of opening /announcement of visitors;
 - (b) Declarations of interests;
 - (c) Public question time;
 - (d) Public statement time;
 - (e) Apologies/leave of absence;
 - (f) Confirmation of minutes;
 - (g) Announcements by the presiding member without discussion;
 - (h) Identification of matters for which the meeting may sit behind closed doors;
 - (i) Petitions;
 - (j) Reports;
 - (k) Urgent business;
 - (l) Motions of which previous notice has been given;
 - (m) Announcements of notices of motion for the next meeting; and
 - (n) Closure.

- (2) Unless otherwise decided by the committee, the order of business at any ordinary meeting of the committee is to be as follows:
 - (a) Declaration of opening;
 - (b) Declarations of interests;
 - (c) Public question time (subject to section 5.24 of the Act);
 - (d) Public statement time (subject to clause 5.8(6));
 - (e) Apologies/leave of absence;
 - (f) Confirmation of minutes;
 - (g) Announcements by the presiding member without discussion;
 - (h) Identification of matters for which the meeting may sit behind closed doors;
 - (i) Petitions and deputations;
 - (j) Reports;
 - (k) Urgent business;

- (l) Motions of which previous notice has been given;
 - (m) Requests for reports for future consideration; and
 - (n) Closure.
- (3) Unless otherwise decided by the members present, the order of business at any special meeting of the Council or a committee is to be the order in which that business stands in the notice of, or agenda for, the meeting.

Note: in exercising its discretion relating to the order of business under subclauses (1) and (2), a meeting must comply with the requirements of the Act and Regulations relating to public question time (see clauses 5.3-5.5 below)

4.4 Grant of leave of absence

The grant of leave of absence is dealt with in the Act.

Note: Section 2.25 of the Act states –

2.25. Disqualification for failure to attend meetings

- (1) A council may, by resolution, grant leave of absence, to a member.
- (2) Leave is not to be granted to a member in respect of more than 6 consecutive ordinary meetings of the council without the approval of the Minister, unless all of the meetings are within a period of 3 months.
- (3A) Leave is not to be granted in respect of —
 - (a) a meeting that has concluded; or
 - (b) the part of a meeting before the granting of leave.
- (3) The granting of the leave, or refusal to grant the leave and reasons for that refusal, is to be recorded in the minutes of the meeting.
- (4) A member who is absent, without obtaining leave of the council, throughout 3 consecutive ordinary meetings of the council is disqualified from continuing his or her membership of the council, unless all of the meetings are within a 2 month period.
- (5A) If a council holds 3 or more ordinary meetings within a 2 month period, and a member is absent without leave throughout each of those meetings, the member is disqualified if he or she is absent without leave throughout the ordinary meeting of the council immediately following the end of that period.
- (5) The non-attendance of a member at the time and place appointed for an ordinary meeting of the council does not constitute absence from an ordinary meeting of the council —
 - (a) if no meeting of the council at which a quorum is present is actually held on that day; or
 - (b) if the non-attendance occurs —
 - (i) while the member has ceased to act as a member after written notice has been given to the member under section 2.27(3) and

- before written notice has been given to the member under section 2.27(5); or
 - (ii) while proceedings in connection with the disqualification of the member have been commenced and are pending; or
 - (iii) while the member is suspended under section 5.117(1)(a)(iv); or
 - (iii) while the election of the member is disputed and proceedings relating to the disputed election have been commenced and are pending.
- (6) A member who before the commencement of the *Local Government Amendment Act 2009* section 5 1 was granted leave during an ordinary meeting of the council from which the member was absent is to be taken to have first obtained leave for the remainder of that meeting.

4.5 Announcements by the presiding member

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

4.6 Motions of which previous notice has been given

- (1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business of the local government 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 signed by the member and given to the CEO at least 7 clear days before the meeting at which the motion is to be raised.
- (3) A notice of motion is to relate to the good government of persons in the district.
- (4) The CEO -
 - (a) with the concurrence of the presiding member, may exclude from the agenda any notice of motion deemed to be, or likely to involve, a breach of this local law or any other written law;
 - (b) with the concurrence of the submitting member, may make such amendments to the form, but not the substance, as will bring the notice of motion into due form; and
 - (c) may provide relevant and material facts and circumstances relating to the notice of motion on such matters as policy, budget and law.

Note: under section 5.41(b) of the Local Government Act, the CEO may provide to members any information that he or she considers relevant to the notice of motion

- (5) If a notice of motion is excluded under subclause (4)(a), the CEO is to provide the reason for its exclusion to all members as soon as practicable.
- (6) A motion of which notice has been given is to lapse unless -

- (a) the member who gave notice, or another member authorised by him or her in writing, moves the motion when called on; or
 - (b) the Council or committee on a motion agrees to defer consideration of the motion to a later stage or date.
- (7) Where a motion of which notice has been given lapses under subclause (6), any future notice of a motion in the same terms or the same effect is not to be given for at least three months from the date of the lapse.
- (8) For the purposes of clarification, where a notice of motion is moved and seconded at a meeting of Council or committee, it is to be treated as a primary motion.

4.7 Urgent business

- (1) The presiding member, at an ordinary meeting of the Council or committee, may move a motion involving business that is not included in the agenda for that meeting if the presiding member considers that either -
- (a) the nature of the business is such that the business cannot await inclusion in the agenda for the next meeting; or
 - (b) the delay in referring the business to the next meeting could have adverse legal or financial implications for the local government.
- (2) Before debate begins on a matter under this clause that is not the subject of a written report from the CEO to the meeting -
- (a) the presiding member is to ask the CEO to give; and
 - (b) the CEO, or the CEO's nominee, is to give,
- a verbal report to the meeting.
- (3) Where urgent business is considered at a meeting under this clause, the minutes of the meeting are to include -
- (a) a summary of the verbal report and any recommendations of the CEO or the CEO's nominee; and
 - (b) the reasons for any decision made at the meeting that is significantly different from any recommendations of the CEO or the CEO's nominee.

4.8 Adoption by exception resolution

- (1) In this clause ***adoption by exception resolution*** means -
- (a) in respect to the Council, a resolution of the Council that has the effect of adopting, for a number of specifically identified reports, the committee or CEO's recommendation as the Council resolution; and
 - (b) in respect to a committee, a resolution of a committee that has the effect of adopting, for a number of specifically identified reports, the CEO's recommendation as the committee resolution.
- (2) The Council or a committee may pass an adoption by exception resolution.

- (3) An adoption by exception resolution may not be used for a matter -
- (a) that requires adoption by an absolute majority or a special majority vote;
 - (b) in which a financial or proximity interest has been disclosed;
 - (c) that is a matter on which a member wishes to speak; or
 - (d) that is a matter on which a member wishes to move a motion that is different to the recommendation.

4.9 Representation on external bodies

- (1) In this clause **external body** includes -

- (a) a Regional Council;
- (b) an incorporated or unincorporated association;
- (c) a trust;
- (d) a tribunal;
- (e) a government agency, instrumentality, board or committee; and
- (f) any other external body,

to which the local government is entitled, or has been invited, to provide a representative.

- (2) Correspondence inviting the Council to submit a nomination for appointment to an external body is to be referred by the CEO to the Council or an appropriate committee.

Part 5 - Public participation

5.1 Meetings generally open to the public

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

Note: Section 5.23 of the Act states -

5.23. Meetings generally open to public

- (1) Subject to subsection (2), the following are to be open to members of the public —
 - (a) all council meetings; and
 - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —

- (a) a matter affecting an employee or employees; and
 - (b) the personal affairs of any person; and
 - (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; and
 - (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; and
 - (e) a matter that if disclosed, would reveal —
 - (i) a trade secret; or
 - (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; and
 - (f) a matter that if disclosed, could be reasonably expected to —
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
 - (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;
 and
 - (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

5.2 Procedure to close meetings 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 to members of the public a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried -
 - (a) the presiding member is to -
 - (i) direct all members of the public, other than a person specified in the resolution, to leave the meeting; and
 - (ii) upon consultation with the CEO, request specified employees to leave the meeting; and

- (b) the meeting is to remain closed to members of the public until the Council or the committee resolves to open the meeting.
- (4) A person who fails to comply with a direction under subclause (3) may, by order of the presiding member, be removed from the meeting.
- (5) A resolution under this clause may be made without notice of the relevant motion.
- (6) Subject to subclause (7) unless the Council or the committee resolves otherwise, once the meeting is reopened to members of the public the presiding member is to ensure that -
 - (a) any resolution of the Council or committee made while the meeting was closed is to be read out; and
 - (b) the vote of a member or members is recorded in the minutes.
- (7) In the event that no member of the public returns to the meeting after it is reopened, the resolution, including the details of any voting, need not be read aloud but be recorded in the minutes of the meeting.

Note: restrictions on the disclosure of information considered at a meeting closed to the public are set out in clause 5.14 below.

5.3 Question time for the public

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

Note: Section 5.24 of the Act states -

5.24. Question time for public

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

5.4 Question time for the public at certain meetings

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

Note: Regulation 5 of the *Local Government (Administration) Regulations 1996* states -

5. Question time for public, meetings that require prescribed (Act s. 5.24)

For the purposes of section 5.24(1)(b), the meetings at which time is to be allocated for questions to be raised by members of the public and responded to are —

- (a) every special meeting of a council;

- (b) every meeting of a committee to which the local government has delegated a power or duty.

5.5 Minimum question time for the public

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

Note: Regulation 6 of the *Local Government (Administration) Regulations 1996* states -

6. Question time for public, minimum time for (Act s. 5.24(2))

- (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.

5.6 Procedures for question time for the public

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

Note: Regulation 7 of the *Local Government (Administration) Regulations 1996* states -

7. Question time for public, procedure for (Act s. 5.24(2))

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

- (c) a committee to answer a question that does not relate to a function of the committee.
- (5) If, during the time allocated for questions to be raised by members of the public and responded to, a question relating to a matter in which a relevant person has an interest, as referred to in section 5.60, is directed to the relevant person, the relevant person is to —
 - (a) declare that he or she has an interest in the matter; and
 - (b) allow another person to respond to the question.

5.7 Other procedures for question time for the public

- (1) The presiding member is responsible for the conduct of public question time.
- (2) The procedure for the asking of and responding to questions raised by members of the public may be determined by resolution of the Council.
- (3) A member of the public wanting to ask a question during public question time must first state their name and full address.
- (4) Questions asked by the public are to relate to the business of the local government and are not to be in the form of a statement or a personal opinion.
- (5) The presiding member is to endeavour to have every question responded to at the meeting at which it is asked but where this is not possible, the question is to be taken on notice and where practicable, a written response is to be provided to the person who asked the question and a copy the response is to be included in the agenda of the next ordinary meeting of the council or committee as the case requires.
- (6) Notwithstanding clause 4.3(2) there is to be no public question time in meetings of committees other than a committee to which the Council has delegated a power or duty.

5.8 Public statement time

- (1) The presiding member is responsible for the conduct of public statement time.
- (2) The procedure for the making of statements by members of the public may be determined by resolution of the Council.
- (3) A member of the public wanting to make a public statement must first state their name and full address.
- (4) Public statements made by the public at an ordinary meeting are to relate to the business of the local government.
- (5) Public statements made by the public at a special meeting are to relate to the business in which the meeting has been called.
- (6) Notwithstanding clause 4.3(2) there is to be no public statement time in meetings of committees other than a committee to which the Council has delegated a power or duty.

5.9 Distinguished visitor and guest

If a distinguished visitor or guest is present at a meeting of the Council or a committee, the presiding member may -

- (a) invite the distinguished visitor or guest to sit beside the presiding member or at the meeting table;
- (b) acknowledge the presence of the distinguished visitor or guest at an appropriate time during the meeting; and
- (c) direct that the presence of the distinguished visitor or guest be recorded in the minutes.

5.10 Deputations to a committee

- (1) A person or a group not exceeding 5 people who wish to be received as a deputation by a committee must –
 - (a) apply in writing to the CEO; and
 - (b) include with the application information relating to the subject matter to be raised by the deputation in concise terms, but in sufficient detail to provide a general understanding of the purpose of the deputation.
- (2) The CEO is to refer to the presiding member a copy or summary of the application and the presiding member is to decide if the deputation is to be received by the committee.
- (3) Unless the committee resolves otherwise -
 - (a) a deputation that complies with subclause (1) and approved by the presiding member under subclause (2) may address the committee for up to 15 minutes; and
 - (b) the presiding member may allow that period of 15 minutes to be shared between two or three members of the deputation and, in the absence of agreement by members of the deputation, the presiding member is to determine which members of the deputation are to address the committee and for how long (within the total period of 15 minutes).
- (4) Any matter which is the subject of a deputation to the committee is not to be decided by the committee until the deputation has completed its presentation.
- (5) Where a deputation is to be received by the committee, the person or group comprising of the deputation is to address the meeting at the relevant part in the order of business as detailed in clause 4.3(2).
- (6) Any item of business to be discussed at a committee meeting that is subject of a received deputation, may be brought forward in the order of business for the meeting as the next item of business after the deputation has been received.

5.11 Petitions

- (1) A petition must -
 - (a) be prepared, as far as practicable, in the form prescribed in Schedule 1;

- (b) be addressed to the Council and forwarded to a member or the CEO;
 - (c) be made by at least 25 electors of the district;
 - (d) state the request on each page;
 - (e) contain a summary of the reasons for the request;
 - (f) contain the legible names, addresses and signatures of the electors making the request, and the date each elector signed;
 - (g) state the name of the person upon whom, and an address at which, notice to the petitioners can be given;
 - (h) be respectful and temperate in its language; and
 - (i) comply with any form prescribed by the Act or any other written law, such as the *Local Government (Constitution) Regulations 1998* if, for example, it is -
 - (i) a proposal to change the method of filling the office of Mayor;
 - (ii) a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.
- (2) On the presentation of a petition -
- (a) the member presenting it or the CEO is confined to reading the petition; and
 - (b) the only motion that is in order is that the petition be received and, if necessary, that it be referred to the CEO for action.
- (3) At any meeting, the Council or committee 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 or committee has considered the issues raised in the petition.

5.12 Participation at committee meetings

- (1) In this clause, **person** means the Mayor or a Councillor who is not a member of the relevant committee.
- (2) A person may attend, as an observer, any meeting of a committee and is to sit in an area set aside for observers separated from the committee members.
- (3) Without the consent of the presiding member, no person is to address a committee meeting.
- (4) A person addressing the committee with the consent of the presiding member must 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 meeting room.

5.13 Public inspection of agenda material

The right of a member of the public to inspect the documents relating to a Council or committee meeting are dealt with in the Regulations.

Note: Regulation 14 of the *Local Government (Administration) Regulations 1996* states -

14. Notice papers, agenda etc., public inspection of (Act s. 5.25(1)(j))

- (1) A local government is to ensure that notice papers and agenda relating to any council or committee meeting and reports and other documents which —
 - (a) are to be tabled at the meeting; or
 - (b) have been produced by the local government or a committee for presentation at the meeting,and which have been made available to members of the council or committee for the meeting are available for inspection by members of the public from the time the notice papers, agenda or documents were made available to the members of the council or committee.
- (2) Nothing in subregulation (1) entitles members of the public to inspect the information referred to in that subregulation if, in the CEO's opinion, the meeting or that part of the meeting to which the information refers is likely to be closed to members of the public under section 5.23(2).

Note: Regulation 29 of the *Local Government (Administration) Regulations 1996* states -

29. Information to be available for public inspection (Act s. 5.94)

- (1) Subject to subregulation (2), the information prescribed for the purposes of section 5.94(u)(ii) is —
 - (a) the information contained in a register to which section 5.18 applies;
 - (b) the information contained in a register to which section 5.46(1) applies;
 - (ba) the information contained in an electoral gift register established and maintained under regulation 30G(1) of the *Local Government (Elections) Regulations 1997*;
 - (bc) details of a regional price preference policy adopted in accordance with Part 4A of the *Local Government (Functions and General) Regulations 1996*;
 - (d) all superseded versions of each policy of the local government;
 - (e) the information contained in a tenders register kept under the *Local Government (Functions and General) Regulations 1996*.

5.14 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 or committee meeting under the item "Identification of matters for which the meeting may be closed to the public";

- (b) marked “Confidential” in the agenda; and
 - (c) kept confidential by members and employees until the Council or committee resolves otherwise, or in the opinion of the CEO, the reason for confidentiality ceases to exist.
- (2) A member or an employee who has -
- (a) confidential information under subclause (1); or
 - (b) information that is provided or disclosed for the purposes of or during a meeting or part of a meeting that is closed to the public,
- must not disclose any of that information to any person other than another member or an employee to the extent necessary for the purpose of carrying out his or her duties.
- (3) Subclause (2) does not prevent a member or employee from disclosing information –
- (a) at a closed meeting;
 - (b) to the extent specified by the Council and subject to such other conditions as the Council decides;
 - (c) that is already in the public domain;
 - (d) to an officer of the Department;
 - (e) to the Minister;
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.

Note: Section 5.93 of the Act states -

5.93. Improper use of information

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

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

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

Note: clause 21 of the *City of Joondalup Code of Conduct for Council Members, Committee Members and Candidates*.

21. Disclosure of information

- (1) In this clause –

closed meeting means a council or committee meeting, or a part of a council or committee meeting, that is closed to members of the public under section 5.23(2) of the Act;

confidential document means a document marked by the CEO, or by a person authorised by the CEO, to clearly show that the information in the document is not to be disclosed;

document includes a part of a document;

non-confidential document means a document that is not a confidential document.

- (2) A council member must not disclose information that the council member –
 - (a) derived from a confidential document; or
 - (b) acquired at a closed meeting other than information derived from a non-confidential document.
- (3) Subclause (2) does not prevent a council member from disclosing information –
 - (a) at a closed meeting; or
 - (b) to the extent specified by the Council and subject to such other conditions as the Council determines; or
 - (c) that is already in the public domain; or
 - (d) to an officer of the Department; or
 - (e) to the Minister; or
 - (f) to a legal practitioner for the purpose of obtaining legal advice; or
 - (g) if the disclosure is required or permitted by law.

5.15 Media attendance

Media persons are to be permitted to attend meetings of the Council or committees that are open to the public, in such part of the meeting room as may be set aside for their accommodation, but must withdraw during any period when the meeting is closed to the public.

5.16 Recording of proceedings

- (1) A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of a meeting, without the permission of the presiding member.
- (2) If the presiding member gives permission under subclause (1), the presiding member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.

5.17 Prevention of disturbance

- (1) A reference in this clause to a “person” is to a person other than a member.
- (2) A person must ensure that his or her mobile telephone or other audible electronic device is not switched on or used during any meeting of the Council or a committee.
- (3) A person addressing the Council or a committee must extend due courtesy and respect to the Council or committee and the processes under which it operates and must comply with any direction by the presiding member.
- (4) A person present at or observing a meeting must not create a disturbance, by interrupting or interfering with the orderly conduct of the proceedings, whether by expressing approval or dissent, by conversing or by any other means.

- (5) The presiding member may warn a person who fails to comply with this clause.
- (6) If -
- (a) after being warned, the person again acts contrary to this clause, or to this local law; or
 - (b) a person refuses or fails to comply with a direction by the presiding member,
- the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.
- (7) A person who is ordered to leave the meeting room and fails to do so may, by order of the presiding member, be removed from the meeting room and, if the presiding member orders, from the premises.

Note: section 75 of the *Criminal Code* states:

75. Interfering with political liberty

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.

Summary conviction penalty: imprisonment for 12 months and a fine of \$12,000.

Part 6 - Disclosure of interests

6.1 Disclosure of members' financial and proximity interests

The disclosure of direct and indirect financial interests and proximity interests by members and employees is dealt with in the Act.

Note: Section 5.59 to 5.63 and 5.70 of the Act state -

5.59. Terms used

In this Subdivision, unless the contrary intention appears —

extent, in relation to an interest, includes the value and amount of the interest;

interest relating to a gift means an interest that a relevant person has because of the operation of section 5.60 when read with section 5.62(1)(ea), (eb) or (ec);

member, in relation to a council or committee, means a council member or a member of the committee;

relevant person means a person who is either a member or a person to whom section 5.70, 5.71 or 5.71A applies.

5.60. When person has an interest

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

- (a) the relevant person; or

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

5.60A. Financial interest

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

5.60B. Proximity interest

- (1) For the purposes of this Subdivision, a person has a proximity interest in a matter if the matter concerns —
 - (a) a proposed change to a planning scheme affecting land that adjoins the person's land; or
 - (b) a proposed change to the zoning or use of land that adjoins the person's land; or
 - (c) a proposed development (as defined in section 5.63(5)) of land that adjoins the person's land.
- (2) In this section, land (the proposal land) adjoins a person's land if —
 - (a) the proposal land, not being a thoroughfare, has a common boundary with the person's land; or
 - (b) the proposal land, or any part of it, is directly across a thoroughfare from, the person's land; or
 - (c) the proposal land is that part of a thoroughfare that has a common boundary with the person's land.
- (3) In this section a reference to a person's land is a reference to any land owned by the person or in which the person has any estate or interest.

5.61. Indirect financial interests

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

5.62. Closely associated persons

- (1) For the purposes of this Subdivision a person is to be treated as being closely associated with a relevant person if —
 - (a) the person is in partnership with the relevant person; or
 - (b) the person is an employer of the relevant person; or
 - (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the relevant person is a trustee; or
 - (ca) the person belongs to a class of persons that is prescribed; or
 - (d) the person is a body corporate —

- (i) of which the relevant person is a director, secretary or executive officer; or
- (ii) in which the relevant person holds shares having a total value exceeding —
 - (I) the prescribed amount; or
 - (II) the prescribed percentage of the total value of the issued share capital of the company,

whichever is less;

or

- (e) the person is the spouse, de facto partner or child of the relevant person and is living with the relevant person; or
 - (ea) the relevant person is a council member and the person —
 - (i) gave an electoral gift to the relevant person in relation to the election at which the relevant person was last elected; or
 - (ii) has given an electoral gift to the relevant person since the relevant person was last elected;
- or
- (eb) the relevant person is a council member and the person has given a gift to which this paragraph applies to the relevant person since the relevant person was last elected; or
 - (ec) the relevant person is a CEO and the person has given a gift to which this paragraph applies to the relevant person since the relevant person was last employed (or appointed to act) in the position of CEO; or
 - (f) the person has a relationship specified in any of paragraphs (a) to (d) in respect of the relevant person's spouse or de facto partner if the spouse or de facto partner is living with the relevant person.

(1A) Subsection (1)(eb) and (ec) apply to a gift if —

(a) either -

- (i) the amount of the gift exceeds the amount prescribed for the purposes of this subsection; or
- (ii) the gift is 1 of 2 or more gifts made by 1 person to the relevant person at any time during a year and the sum of the amounts of those 2 or more gifts exceeds the amount prescribed for the purposes of this subsection; and

(b) the gift is not an excluded gift under subsection (1B).

(1B) A gift is an excluded gift —

(a) if -

- (i) the gift is a ticket to, or otherwise relates to the relevant person's attendance at, an event as defined in section 5.90A(1); and
- (ii) the local government approves, in accordance with the local government's policy under section 5.90A, the relevant person's attendance at the event;

Or

(b) if the gift is in a class of gifts prescribed for the purposes of this subsection.

(2) In subsection (1) —

electoral gift means a gift about which the relevant person was or is required by regulations under section 4.59(a) to provide information in relation to an election;

value, in relation to shares, means the value of the shares calculated in the prescribed manner or using the prescribed method.

5.63. Some interests need not be disclosed

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

(a) an interest common to a significant number of electors or ratepayers; or

(b) an interest in the imposition of any rate, charge or fee by the local government; or

(c) an interest relating to -

(i) a fee, reimbursement of an expense or an allowance to which section 5.98, 5.98A, 5.99, 5.99A, 5.100 or 5.101(2) refers; or

(ii) a gift permitted by section 5.100A; or

(iii) reimbursement of an expense that is the subject of regulations made under section 5.101A; or

(d) an interest relating to the pay, terms or conditions of an employee unless —

(i) the relevant person is the employee; or

(ii) either the relevant person's spouse, de facto partner or child is the employee if the spouse, de facto partner or child is living with the relevant person;

or

[(e) *deleted*]

(f) an interest arising only because the relevant person is, or intends to become, a member or office bearer of a body with non-profit making objects; or

(g) an interest arising only because the relevant person is, or intends to become, a member, office bearer, officer or employee of a department of the Public Service of the State or Commonwealth or a body established under this Act or any other written law; or

(h) a prescribed interest.

(2) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —

(a) any proposed change to a planning scheme for any area in the district; or

(b) any proposed change to the zoning or use of land in the district; or

(c) the proposed development of land in the district,

then, subject to subsection (3) and (4), the person is not to be treated as having an interest in a matter for the purposes of sections 5.65, 5.70 and 5.71.

- (3) If a relevant person has a financial interest because the valuation of land in which the person has an interest may be affected by —
 - (a) any proposed change to a planning scheme for that land or any land adjacent to that land; or
 - (b) any proposed change to the zoning or use of that land or any land adjacent to that land; or
 - (c) the proposed development of that land or any land adjacent to that land, then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.
- (4) If a relevant person has a financial interest because any land in which the person has any interest other than an interest relating to the valuation of that land or any land adjacent to that land may be affected by —
 - (a) any proposed change to a planning scheme for any area in the district; or
 - (b) any proposed change to the zoning or use of land in the district; or
 - (c) the proposed development of land in the district, then nothing in this section prevents sections 5.65, 5.70 and 5.71 from applying to the relevant person.
- (5) A reference in subsection (2), (3) or (4) to the development of land is a reference to the development, maintenance or management of the land or of services or facilities on the land.

Note: Section 5.70 of the Act states:

5.70. Employees to disclose interests relating to advice or reports

- (1) In this section -
employee includes a person who, under a contract for services with the local government, provides advice or a report on a matter.
- (2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.

Penalty for this subsection: a fine of \$10,000 or imprisonment for 2 years.
- (2A) Subsection (2) applies to a CEO even if the advice or report is provided in accordance with a decision made under section 5.71B(2) or (6).
- (3) An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.

Penalty for this subsection: a fine of \$10,000 or imprisonment for 2 years.

6.2 Meeting to be informed of financial and proximity interests

Procedures for informing the meeting of disclosures in clause 6.1 are dealt with in the Act.

Note: Section 5.65 and 5.66 of the Act state:

5.65. Members' interests in matters to be discussed at meetings to be disclosed

- (1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest —
- (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.

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

- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know —
- (a) that he or she had an interest in the matter; or
 - (b) that the matter in which he or she had an interest would be discussed at the meeting.
- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).

5.66. Meeting to be informed of disclosures

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

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

6.3 Disclosing member not to participate

The participation at meetings of a member that has disclosed an interest in clause 6.1 is dealt with in the Act.

Note: Section 5.67 of the Act states:

5.67. Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 must not —

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

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

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

6.4 When disclosing members can participate

When disclosing members can participate is dealt with in the Act.

Note: Section 5.68 and 5.69 of the Act state:

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

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter —
 - (a) may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and
 - (b) may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if —
 - (i) the disclosing member also discloses the extent of the interest; and
 - (ii) those members decide that the interest —
 - (I) is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or
 - (II) is common to a significant number of electors or ratepayers.
- (1A) Subsection (1) does not apply if —
 - (a) the interest disclosed is an interest relating to a gift; and
 - (b) either —
 - (i) the amount of the gift exceeds the amount prescribed for the purposes of this subsection; or
 - (ii) the gift is 1 of 2 or more gifts made by 1 person to the disclosing member at any time during a year and the sum of the amounts of those 2 or more gifts exceeds the amount prescribed for the purposes of this subsection.
- (2) A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with —
 - (a) the extent of any participation allowed by the council or committee; and
 - (b) if the decision concerns an interest relating to a gift, the information prescribed for the purposes of this paragraph.
- (3) This section does not prevent the disclosing member from discussing, or participating in the decision making process on, the question of whether an application should be made to the Minister under section 5.69.

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

- (1) If a member has disclosed, under section 5.65, an interest in a matter, the council or the CEO may apply to the Minister to allow the disclosing member to participate in the part of the meeting, and any subsequent meeting, relating to the matter.
- (2) An application made under subsection (1) is to include —

- (a) details of the nature of the interest disclosed and the extent of the interest; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may allow, on any condition determined by the Minister, the disclosing member to preside at the meeting, and at any subsequent meeting, (if otherwise qualified to preside) or to participate in discussions or the decision making procedures relating to the matter if —
- (a) there would not otherwise be a sufficient number of members to deal with the matter; or
 - (b) the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.
- Penalty: \$10 000 or imprisonment for 2 years.
- (5) A decision under this section must be recorded in the minutes of the meeting relating to the matter.

6.5 Substitution of deputy at committee meetings

Where a member discloses an interest on an item under clause 6.1 and withdraws from a meeting of a committee, the presiding member may invite the disclosing member's deputy, if present, to participate as a member of the committee in place of the disclosing member during the consideration of that item only.

6.6 Disclosure of impartiality interests

The disclosure of impartiality interests at meetings is dealt with in the Rules of Conduct Regulations.

Note: Clause 22 of the *City of Joondalup Code of Conduct for Council Members, Committee Members and Candidates* states:

22. Disclosure of interests

- (1) In this clause —
- interest*** –
- (a) means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and
 - (b) includes an interest arising from kinship, friendship or membership of an association.
- (2) A council member who has an interest in any matter to be discussed at a council or committee meeting attended by the council member must disclose the nature of the interest —

- (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know—
- (a) that they had an interest in the matter; or
 - (b) that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.
- (5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting then —
- (a) before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before a matter to which the disclosure relates is discussed.
- (6) Subclause (7) applies in relation to an interest If —
- (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or
 - (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting,
- (7) The nature of the interest is to be recorded in the minutes of the meeting.

Note: clause 14 of the *City of Joondalup Code of Conduct for Employees* states:

14. Disclosure of interests for meetings

- (1) In this clause –
- Interest –**
- (a) means an interest that could, or could reasonably be perceived to adversely affect the impartiality of the person having the interest; and
 - (b) includes an interest arising from kinship, friendship or membership of an association.
- (2) An employee who has an interest in any matter to be discussed at a council or committee meeting, Briefing session and Strategy session attended by the employee must disclose the nature of the interest –
- (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- (3) An employee who has given, or will give, advice in respect of any matter to be discussed at a council or committee meeting, Briefing session or Strategy session not attended by the employee must disclose the nature of any interest the employee has in the matter –
- (a) in a written notice given to the CEO before the meeting; or
 - (b) at the time the advice is given.

- (4) Subclauses (2) and (3) do not apply to an interest referred to in section 5.60 of the Act.
- (5) Subclauses (2) and (3) do not apply if an employee fails to disclose an interest because the employee did not know –
 - (a) that they had an interest in the matter; or
 - (b) that the matter in which they had an interest would be discussed at the meeting and the employee disclosed the interest as soon as possible after the discussion began.
- (6) If, under subclause (2) and (3), an employee discloses an interest in a written notice given to the CEO before a meeting, then –
 - (a) before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and
 - (b) at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before any matter to which the disclosure relates is discussed.
- (7) Subclause (8) applies in relation to an interest if –
 - (a) under subclause (2) the interest is disclosed before the meeting or immediately before the matter is discussed;
 - (b) under subclause (3)(b) or (5)(b) the interest is disclosed at a meeting; or
 - (c) under subclause (6)(b) notice of the interest is brought to the attention of the persons present at a meeting.
- (8) The nature of the interest must be recorded in the minutes of the meeting, or other record used for the meeting.

6.7 Disclosure by members who are observers at committee meetings

The obligation to disclose an interest in clauses 6.1 and 6.6 is to apply to a person under clause 5.12.

6.8 Committee members to disclose impartiality interests

- (1) In this clause, a reference to -
 - (a) **person** means a member of a committee appointed under the Act who is not either the Mayor or a Councillor; and
 - (b) **interest** means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.
- (2) A person who has an interest in any matter to be discussed at a meeting attended by the person must disclose the nature of the interest -
 - (a) in a written notice given to the CEO before the meeting; or
 - (b) at the meeting immediately before the matter is discussed.
- (3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.
- (4) Subclause (2) does not apply if -

- (a) a person fails to disclose an interest because the person did not know he or she had an interest in the matter; or
 - (b) a person fails to disclose an interest because the person did not know the matter in which he or she had an interest would be discussed at the meeting and the person disclosed the interest as soon as possible after the discussion began.
- (5) If, under subclause (2)(a), a person discloses an interest in a written notice given to the CEO before a meeting then -
- (a) before the meeting the CEO is to cause the notice to be given to the presiding member of the meeting; and
 - (b) at the meeting the presiding member is to bring the notice and its contents to the attention of the persons present immediately before a matter to which the disclosure relates is discussed.
- (6) If -
- (a) under subclause (2)(b) or (4)(b) a person's interest in a matter is disclosed at a meeting; or
 - (b) under subclause (5)(b) notice of a person's interest in a matter is brought to the attention of the persons present at a meeting,

the nature of the interest is to be recorded in the minutes of the meeting.

6.9 On-going disclosure required

The obligation to disclose an interest under this Part applies in regard to each meeting at which the matter the subject of the interest arises.

Part 7 - Conduct of members

7.1 Members to occupy own seats

At Council meetings, members must be seated in the order as determined by the CEO following each ordinary election.

7.2 Official titles to be used

A speaker, when speaking or referring to the Mayor or Deputy Mayor, or to a Councillor or employee, must use the title of that person's office.

7.3 Entering or leaving a meeting

During the course of a meeting, a member must not enter or leave the meeting without first giving an appropriate indication, in order to facilitate the recording in the minutes of the time of entry or departure.

Note: regulation 11(b) of the Regulations requires the content of minutes of a meeting of a Council or committee to include –

- | |
|---|
| (b) where a member enters or leaves a 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. |
|---|

7.4 Members who wish to speak

A member who wishes to speak -

- (a) is to indicate his or her intention to speak by the method determined by the presiding member; and
- (b) when invited by the presiding member to speak, must address the meeting through the presiding member.

7.5 Priority of speaking

- (1) If two or more members of the Council or a committee indicate, at the same time, their intention to speak, the presiding member is to decide which member is to be heard first.
- (2) A decision of the presiding member under this clause is not open to discussion or dissent.

7.6 Presiding member may take part in debate

Subject to compliance with procedures for the debate of motions contained in this local law, the presiding member may take part in a discussion of any matter before the meeting.

7.7 Relevance

- (1) A member must 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 any irrelevant or repetitious remarks by a member; or
 - (b) direct that member, if speaking, to discontinue his or her speech.
- (3) A member must comply with the direction of the presiding member under subclause (2) by immediately ceasing to speak.

7.8 Limitation on members speaking

- (1) A member must not address the Council more than once on any motion or amendment except -
 - (a) as the mover of a primary motion or amendment, to exercise a right of reply;
 - (b) to raise a point of order; or
 - (c) to make a personal explanation.
- (2) A member who asks a question before speaking has not addressed the meeting for the purposes of this clause.

7.9 Duration of speeches

A member may speak on a motion or an amendment, or reply, for a period of only five minutes, unless an extension of time is granted by the Council without debate, but a member's total speaking time must not exceed 10 minutes.

7.10 Questions during debate

- (1) At any time during the debate on a motion before the motion is put, a member may ask a question and, with the consent of the presiding member, may ask one or more further questions.
- (2) Questions asked by a member, and responses given by a member or an employee -
 - (a) are to be brief and concise; and
 - (b) are not to be accompanied by -
 - (i) expression of opinion, statement of fact or other comment, except where necessary to explain the question or answer; or
 - (ii) any discussion or further question, except with the consent of the presiding member.
- (3) In answering any question, a member or an employee may qualify his or her answer and may at a later time in the meeting or at a later meeting alter, correct, add to or otherwise amend his or her original answer.

7.11 No speaking after conclusion of debate

A member must not speak on any motion or amendment -

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

7.12 No interruption

A member must not 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 7.16; or
- (d) to move a procedural motion that the member be no longer heard (see clause 10.1(g)).

7.13 No reopening of discussion

A member must not reopen a discussion on any decision of the Council or committee, except for the purposes on moving a revocation motion (see Part 13).

7.14 Adverse reflection and offensive language

- (1) A member must not reflect adversely on a decision of the Council or a committee except on a motion that the decision be revoked or changed (see Part 13).
- (2) A member must not -
 - (a) reflect adversely on the character or actions of another member or employee;
 - (b) impute any motive to a member or employee; or
 - (c) use an expression that is offensive or objectionable in reference to any other member, employee or other person.

Note: Clause 20 of the *City of Joondalup Code of Conduct for Council Members, Committee Members and Candidates* states:

20. Relationship with City employees

- (1) In this clause –
City employee means a person –
 - (a) employed by the City under section 5.36(1) of the Act; or
 - (b) engaged by the City under a contract for services.
- (2) A council member or candidate must not -
 - (a) direct or attempt to direct a City employee to do or not to do anything in their capacity as a City employee; or
 - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a City employee in their capacity as a City employee; or
 - (c) act in an abusive or threatening manner towards a City employee.
- (3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a Council or Committee meeting.
- (4) If a council member or candidate, in their capacity as a council member or candidate, is attending a council or committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means –
 - (a) make a statement that a City employee is incompetent or dishonest; or
 - (b) use an offensive or objectionable expression when referring to a City employee.
- (5) Subclause (4)(a) does not apply to conduct that is unlawful under *The Criminal Code* Chapter XXXV.

7.15 Withdrawal of offensive language or adverse reflection

A member who, in the opinion of the presiding member -

- (a) reflects adversely on the character or actions of another member or employee;

- (b) imputes any motive to a member or employee; or
- (c) uses an expression that is offensive or objectionable,

must, when directed by the presiding member, withdraw the reflection, imputation or expression and make a satisfactory apology.

Note: clause 8.5 applies where a member fails or refuses to comply with a direction by the presiding member under this clause.

7.16 Personal explanation

- (1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking must 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 must confine his or her observations to a succinct statement relating to the specific part of the speech at which he or she may have been misunderstood.

Part 8 - Preserving order

8.1 Presiding member to preserve order

- (1) The presiding member is to preserve order and, whenever he or she considers it necessary, may call any member to order.
- (2) When the presiding member, during the progress of a debate, is to raise or rule on a point of order, any member or person then speaking, or offering to speak, is to be silent so that the presiding member may be heard without interruption.

8.2 Points of order

- (1) Any of the following acts may be considered to constitute a point of order for the purposes of this local law:
 - (a) a speaker's remarks not being relevant to the motion or amendment being debated (see clause 7.7);
 - (b) a speaker's use of offensive or objectionable expressions (see clause 7.14); or
 - (c) the violation of any written law, including this local law, provided that the member making the point of order states the written law believed to be breached.
- (2) A member who is expressing a difference of opinion or contradicting a speaker is not to be taken as raising a point of order.
- (3) Despite anything in this local law to the contrary, a point of order -
 - (a) takes precedence over any discussion; and

- (b) until determined by the presiding member, suspends the consideration or discussion of any other matter.

8.3 Procedures on a point of order

- (1) Upon a matter of order arising during the progress of a debate, any member may raise a point of order with the presiding member including interrupting the speaker.
- (2) Any member who is speaking when a point of order is raised in subclause (1) is to immediately stop speaking while the presiding member listens to the point of order.
- (3) A member raising a point of order is to specify one of the grounds of the breach of order before speaking further on the matter.

8.4 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 procedural 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 direct the member to make an explanation, retraction or apology.

8.5 Continued breach of order

If a member -

- (a) persists in any conduct that the presiding member had ruled is out of order; or
- (b) fails or refuses to comply with a direction from the presiding member,

the presiding member may direct the member to refrain from taking any further part in the debate on that item, other than by voting, and the member must comply with that direction.

8.6 Presiding member may adjourn meeting

- (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.
- (4) If there is an adjournment under this clause, the names of the members who have spoken on the motion or amendment before the adjournment are to be recorded in the minutes and those members are not to speak to the motion when the meeting is resumed.

Part 9 - Motions and amendments

9.1 Recommendations in reports

- (1) Where the Council or a committee adopts a recommendation contained in a report, either with or without amendment, the recommendation so adopted is taken to be a decision of the Council or the committee (as the case may be).
- (2) Where a motion, if carried, would be significantly different from the relevant written recommendation of an employee or committee, the reason for the decision is to be recorded in the minutes of the meeting in accordance with the Regulations.

Note: Regulation 11 (da) of the *Local Government (Administration) Regulations 1996* states The content of minutes of a meeting of a council or a committee is to include written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a committee or an employee as defined in section 5.70 (but not a decision to only note the matter or to return the recommendation for further consideration).

- (3) A committee may make a recommendation to the Council which -
 - (a) is relevant to the purpose for which the committee is established by the Council; and
 - (b) the committee considers requires consideration by the Council.
- (4) Where a committee makes a recommendation for consideration by the Council, the CEO must prepare or cause to be prepared a report to the Council with respect to the recommendation.

9.2 Presentation of committee reports

The proposed adoption by the Council of recommendations of a committee is to be moved –

- (a) if the presiding member of the committee is a Council member and is in attendance – by the presiding member;
- (b) if the presiding member of the committee is not a Council member or is absent – by a member of the committee who is also a Council member; or
- (c) otherwise – by a Council member who is not a member of the committee.

9.3 Permissible motions on recommendations

A recommendation made by a committee or contained in a report from the CEO may be -

- (a) adopted by the Council without amendment;
- (b) replaced by an alternative motion and adopted by the Council;
- (c) amended, and adopted as amended, by the Council;
- (d) referred back to the committee for further consideration; or
- (e) referred back to the CEO.

9.4 Motions to be stated and in writing

- (1) A member who wishes to move a primary motion, or an amendment to a primary motion -
 - (a) is to state the substance of the motion before speaking to it; and
 - (b) is to put the motion or amendment in writing if -
 - (i) in the opinion of the presiding member, the motion or amendment is significantly different to the relevant written recommendation of a committee or an employee; or
 - (ii) he or she is otherwise required to do so by the presiding member.
- (2) The written terms of the motion or amendment are to be given to the CEO who is to ensure that they are recorded in the minutes.

9.5 Motions to be seconded

- (1) A primary motion or an amendment to a primary motion is not open to debate until it has been seconded.
- (2) A motion to revoke or change a decision made at a Council or a committee meeting is not open to debate unless the motion has the support required under regulation 10 of the Regulations (see clause 13.1).
- (3) A member seconding a motion has the right to speak on the motion later in the debate.
- (4) A motion is not to be amended by the mover without the consent of the seconder.
- (5) A nomination for any appointment under clause 4.9 is not required to be seconded.

9.6 Unopposed business

- (1) Immediately after a primary motion or amendment 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 put the motion to the vote without debate.
- (3) If a member opposes a motion, the motion is to be dealt with under this Part.

9.7 Only one primary motion at a time

The Council or committee -

- (a) is not to accept a primary motion while another primary motion is being debated; and
- (b) is not to consider more than one primary motion at any time.

9.8 Complex motions

The presiding member may require that a complex primary motion, or a complex amendment to a primary motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.

9.9 Order of call in debate

The presiding member is to call speakers to a primary 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) other speakers for or against the motion; and
- (f) mover takes right of reply which closes debate.

9.10 Limit of debate

The presiding member may offer the right of reply and put a primary motion to the vote if he or she believes that sufficient discussion has taken place and where no other member has given an indication to speak to the motion.

9.11 Member may require motion to be read

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

9.12 Amendments

- (1) A member may move an amendment to a primary motion at any time during debate on the motion, except -
 - (a) if the mover has been called by the presiding member to exercise the right of reply;
 - (b) if the member has already spoken to the primary motion;
 - (c) if another amendment is being debated, or has not been withdrawn, carried or lost; or
 - (d) during debate on a procedural motion.
- (2) An amendment must be relevant to the primary motion to which it is moved and must not have the effect of negating the primary motion.
- (3) An amendment to a primary motion is to take only one of the following forms:

- (a) that certain words be omitted;
 - (b) that certain parts be omitted and others substituted or added; or
 - (c) that certain words be added.
- (4) Only one amendment is to be debated at a time, but as often as an amendment is withdrawn, carried or lost, another amendment may be moved before the primary motion is put to the vote.
- (5) Where an amendment is carried, the primary motion as amended is, for all purposes of subsequent debate, to be treated as the primary motion.
- (6) The mover of an amendment has the right of reply at the conclusion of the discussion on the amendment and the right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

9.13 Withdrawal of motion and amendments

- (1) The Council or a committee may, without debate, grant leave to withdraw a primary motion or amendment on the request of the mover of the motion or amendment if -
- (a) it has the approval of the seconder; and
 - (b) there is no voice expressed to the contrary by any member.
- (2) If either paragraph (a) or (b) of subclause (1) do not apply, the discussion on the motion or amendment is to continue.
- (3) Where an amendment has been proposed to a primary motion, the primary motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

9.14 Right of reply

- (1) The mover of a primary motion has the right of reply.
- (2) The right of the reply may be exercised only -
- (a) where no amendment is moved to the primary motion – at the conclusion of the discussion on the motion; or
 - (b) where one or more amendments have been moved to the primary motion – at the conclusion of the discussion on the primary motion and any amendments.
- (3) After the mover of the primary motion has commenced the reply -
- (a) no other member is to speak on the motion; and
 - (b) there is to be no further discussion on, or any further amendment to, the motion.
- (4) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
- (5) At the conclusion of the right of reply, the primary motion, or the primary motion as amended, is immediately to be put to the vote.

Part 10 - Procedural motions

10.1 Permissible procedural motions

In addition to the right to move an amendment to a primary motion (under Part 9), a member may move any of the following procedural motions:

- (a) that the motion be deferred;
- (b) that the motion be now put;
- (c) that the item be referred back to a committee (or the CEO);
- (d) that the meeting now adjourn;
- (e) that the meeting be closed to members of the public (see clause 5.2);
- (f) that the meeting be now closed;
- (g) that the member be no longer heard;
- (h) that the ruling of the presiding member be disagreed with; and
- (i) that the debate be adjourned.

10.2 No debate

- (1) The mover of a motion stated in paragraphs (a), (c), (d), (e), (f), (g) or (i) of clause 10.1 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 stated in paragraph (b) or (h) of clause 10.1 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.

10.3 Who may move

With the exception of subclause 10.1(h), a member who has moved, seconded, or spoken for or against the primary motion, or any amendment to the primary motion, cannot move any procedural motion which, if carried, would close the debate on the primary motion or amendment.

10.4 Right of reply on motion

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

10.5 Motion be deferred – effect of motion

- (1) If a motion “that the motion be deferred”, is carried, then all debate on the primary motion and any amendment is to cease and the motion or amendment is to be resubmitted for consideration at a time and date specified in the motion.

- (2) A motion “that the motion be deferred’ must not be moved in respect of the election of a presiding member, Mayor or Deputy Mayor.

10.6 Motion be now put – effect of motion

- (1) If a motion “that the motion be now put”, is carried during discussion on a primary motion without amendment, the presiding member is to offer the right of reply and then immediately put the motion to the vote without further debate.
- (2) If the motion “that the motion be now put” is carried during debate of the amendment, the presiding member is to put the amendment to the vote without further debate.
- (3) If the motion “that the motion be now put”, is lost, debate is to continue.

10.7 The item be referred back to a committee (or the CEO) – effect of motion

- (1) If a motion “that the item be referred back to a committee (or the CEO)” is carried, debate on the primary motion and any amendment is to cease and the primary motion, excluding any amendment, is to be referred back to the appropriate committee or the CEO for further consideration.
- (2) If the motion in subclause (1) is lost, debate on the primary motion or amendment is to continue.

10.8 Meeting now adjourn – effect of motion

- (1) If a motion “that the meeting now adjourn”, is carried then the meeting is to be adjourned to a time and date specified in the motion, or where no time and date is specified, to such time and date as the presiding member declares, or to the next ordinary meeting.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1) -
 - (a) the debate is to be resumed at the date and time specified as required in subclause (1) and at the point where it was so interrupted;
 - (b) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
 - (c) the provisions of clause 7.8 apply when the debate is resumed.
- (3) If a motion “that the meeting now adjourn” is lost, no similar motion is to be moved until -
 - (a) after the conclusion of the business under discussion at the time the motion was moved;
 - (b) if the motion was moved on the conclusion of an item of business, after the conclusion of the next item of business; or
 - (c) after the conclusion of any other business allowed precedence by the meeting.
- (4) A member must not, at the same meeting, move or second more than one motion for the adjournment of the meeting.

10.9 The meeting be closed to members of the public – effect of motion

If a motion “that the meeting be closed to members of the public” is carried then the presiding member is to close the meeting in accordance with clause 5.2.

10.10 The meeting be now closed – effect of motion

- (1) If a motion “that the meeting be now closed”, is carried, then -
 - (a) the presiding member is to close the meeting, and no further business may be transacted; and
 - (b) any business outstanding on the agenda for that meeting shall be carried forward to the agenda for the next ordinary meeting.
- (2) If the motion “that the meeting be now closed” is carried at a meeting of the Council -
 - (a) the names of members who have spoken on the matter are to be recorded in the minutes; and
 - (b) the provisions of clause 7.8 apply when the outstanding business is resumed.

10.11 Member to be no longer heard – effect of motion

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 primary motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the primary motion or amendment.

10.12 Ruling of the presiding member be disagreed with – effect of motion

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.

10.13 Debate be adjourned – effect of motion

- (1) If a motion “that the debate be adjourned”, is carried –
 - (a) all debate on the primary motion or amendment is to cease and is to continue at a time and date specified in the motion;
 - (b) the names of members who have spoken on the matter are to be recorded in the minutes; and
 - (c) the provisions of clause 7.8 apply when the debate is resumed.
- (2) A motion “that the debate be adjourned” must not be moved in respect of the election of a presiding member, Mayor or Deputy Mayor.
- (3) A member must not, at the same meeting, move or second more than one motion “that the debate be adjourned” in respect of the same item.

Part 11 - Voting

11.1 Motion - when put

Immediately after the debate on any motion is concluded and the right of reply has been exercised, the presiding member -

- (a) is to put the motion to the meeting; and
- (b) if requested by a member, is again to state the terms of the motion.

11.2 Crossing the floor of meeting room

- (1) When the presiding member is putting any motion to the vote, a member must not leave or cross the meeting room.
- (2) A member must not, while any other member is speaking, pass between the speaker and the presiding member or pass behind the presiding member.

11.3 Voting

Voting is dealt with in the Act and the Regulations.

Note: Section 5.21 of the Act states -

5.21. Voting

- (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.

Note: Regulations 9 of the *Local Government (Administration) Regulations 1996* states -

9. Voting to be open (Act s. 5.25(1)(d))

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

11.4 Majorities required for decisions

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

Note: Section 5.20 of the Act states -

5.20. Decisions of councils and committees

- (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; or
 - (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.

11.5 Method of taking vote

In taking the vote on any motion, the presiding member -

- (a) is to put the motion, first in the affirmative, and then in the negative;
- (b) may put the motion 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) is to count and determine the votes of members in any way (such as electronically or by a show of hands) that enables a record to be taken of each member's vote; and
- (d) subject to this clause, is to declare the result.

Part 12 - Minutes

12.1 Keeping of minutes

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

Note: Section 5.22 of the Act states -

5.22. Minutes of council and committee meetings

- (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.

12.2 Content of minutes

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

Note: Regulation 11 of the *Local Government (Administration) Regulations 1996* states -

11. Minutes, content of (Act s. 5.25(1)(f))

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; and
- (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; and
- (c) details of each motion moved at the meeting, the mover and the outcome of the motion; and
- (d) details of each decision made at the meeting; and
- (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); and
- (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; and
- (g) each document attached to an agenda relating to a council or committee meeting unless the meeting or that part of the meeting to which the document refers is closed to members of the public.

- (2) In addition to the matters required by the Regulations, the minutes of a meeting are to include -
 - (a) where an application for approval is refused or the authorisation of a licence, permit or certificate is otherwise withheld or cancelled, the reasons for the decision; and
 - (b) the names of members voting in the affirmative and the names of the members voting in the negative.

12.3 Public inspection of unconfirmed minutes

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

Note: Regulation 13 of the *Local Government (Administration) Regulations 1996* states -

13. Publication of unconfirmed minutes of meetings , (Act s. 5.25(1)(i))

- (1) The CEO must publish on the local government's official website –
 - (a) the unconfirmed minutes of each council and committee meeting that is open to members of the public; and
 - (b) if a council or committee meeting is closed to members of the public – that part of the unconfirmed minutes of the meeting that is a record of decisions made at the meeting.
- (2) The unconfirmed minutes of a council meeting must be published within 14 days after the meeting is held.
- (3) The unconfirmed minutes of a committee meeting must be published within 7 days after the meeting is held.

12.4 Confirmation of minutes

- (1) Confirmation of minutes is dealt with in the Act.
- (2) When minutes are being confirmed, discussion is not to be permitted other than discussion as to their accuracy as a record of the proceedings.

Note: Section 5.22 of the Act states -

5.22. Minutes of council and committee meetings

- (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.

Part 13 - Implementing decisions and revocation motions

13.1 Meaning of terms

In this Part -

authorisation means a licence, permit, approval or other means of authorising a person to do anything;

implement, in relation to a decision, includes -

- (a) communicate notice of the decision to a person affected by, or with an interest in, the decision; and
- (b) take any other action to give effect to the decision; and

valid notice of revocation motion means a notice of a revocation motion that -

- (a) complies with the requirements of the Act, Regulations and these Meeting Procedures and may be considered, but has not yet been considered, by the Council or a committee as the case may be; and
- (b) if carried and implemented, would result in the decision being revoked or being substantially different.

13.2 Requirements to revoke or change decisions

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

Note: Regulation 10 of the *Local Government (Administration) Regulations 1996* states -

10. Revoking or changing decisions (Act s. 5.25(1)(e))

- (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 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 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 decision must be made 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.

13.3 Revocation motion at the same meeting – procedure

- (1) A member who wishes to move a revocation motion at the same meeting where the decision is made must -
 - (a) clearly identify the decision to be revoked or changed; and
 - (b) clearly state the reason for the decision to be revoked or changed.
- (2) If the CEO receives a notice of a revocation motion to revoke a decision made at a meeting before the close of that meeting, the CEO must immediately advise the Presiding Member of the substance of the revocation motion and raise it as an item of urgent business under clause 4.7.

- (3) Where the Presiding Member is advised of a revocation motion under subclause (2), he or she is to -
- (a) advise the meeting of the notice;
 - (b) state the substance of the revocation motion;
 - (c) determine whether there is sufficient support under clause 13.2; and
 - (d) if there is sufficient support, deal with the revocation motion.

13.4 Revocation motion after meeting – procedures

- (1) A member wishing to move a revocation motion at a future meeting of the Council or a committee must give to the CEO notice of the revocation motion, which is to -
- (a) be in writing;
 - (b) specify the decision proposed to be revoked or changed;
 - (c) include a reason or reasons for the revocation motion;
 - (d) be supported by the number of members required under the Regulations;
 - (e) specify the date of the ordinary or special meeting of the Council or the committee where it is to be presented, as the case may be; and
 - (f) be given to the CEO in accordance with the notice of motion provisions in clause 4.6.
- (2) Any notice of revocation motion given to the CEO must be dealt with in accordance with 4.6.

13.5 Limitations on powers to revoke or change decisions

- (1) Subject to subclause (2), the Council or a committee is not to consider a revocation motion -
- (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 13.6 to implement the decision;
 - (b) where the decision concerns the grant of an authorisation, and where that authorisation has been communicated in writing by the City to the applicant; or
 - (c) where the decision is procedural in its form or effect.
- (2) The Council or a committee may consider a revocation motion of the kind described in subclause (1)(a) or (b) if the motion is accompanied by a written statement, by or on behalf of the CEO, of the legal and financial consequences of the motion being carried.

13.6 Implementing a decision

- (1) Subject to subclause (4), and unless a resolution is made under subclause (2), a decision made at a meeting is not to be implemented by the CEO or any other person until after 12 noon of the first clear working day after the commencement of the meeting at which the decision was made.

- (2) The Council or a committee may, by resolution carried at the same meeting at which a decision was made, request the CEO to take immediate action to implement the decision.
- (3) 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.
- (4) The CEO is to ensure that members of the public attending a 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.

Note: one of the statutory functions of the CEO under section 5.41(c) of the Act is to “cause Council decisions to be implemented”.

Part 14 - Suspension and non-application of Meeting Procedures

14.1 Suspension of these Meeting Procedures

- (1) A member may, at any time, move that the operation of one or more of the clauses of this local law be suspended.
- (2) A member moving a motion under subclause (1) is to identify the clause or clauses to be suspended, and state the reasons for the motion, but no other discussion is to take place.
- (3) A motion under subclause (1) which is seconded and carried is to suspend the operation of the clause or clauses to which the motion relates for the duration of the discussion on any matter, unless the meeting resolves otherwise.

14.2 When these Meeting Procedures do not apply

- (1) In situations where -
 - (a) this local law has been suspended; or
 - (b) a matter is not regulated by the Act, the Regulations or this local law,
 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 of dissent is moved and carried under clause 10.1(h).

Part 15 - Committees

15.1 Establishment and appointment of committees

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

Note: Section 5.8 of the Act states –

5.8. Establishment of committees

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.

- (2) A Council resolution to establish a committee under section 5.8 of the Act is to include -
- (a) the terms of reference or functions of the committee;
 - (b) either -
 - (i) the names or titles of the members, employees and any other persons to be appointed to the committee; or
 - (ii) the number of members, officers and any other persons to be appointed to the committee and a provision that they be appointed under a separate resolution; and
 - (c) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.

15.2 Types of committees

The types of committees are dealt with in the Act.

Note: Section 5.9 of the Act states –

5.9. Committees, types of

- (1) In this section –

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

- (2) A committee is to comprise –
- (a) council members only;
 - (b) council members and employees;
 - (c) council members, employees and other persons;
 - (d) council members and other persons;
 - (e) employees and other persons; or
 - (f) other persons only.

15.3 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.

Note: Section 5.16 of the Act states –

5.16. Delegation of some powers and duties to certain committees

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

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

15.4 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.

Note: Section 5.17 of the Act states –

5.17. Limits on delegation of powers and duties to certain committees

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

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

15.5 Appointment of committee members

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

Note: Section 5.10 of the Act states –

Committee members, appointment of

- (1) A committee is to have as its members –
- (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons who are appointed to be members of the committee under subsection (4) or (5).
- * *Absolute majority required.*
- (2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.
- (3) Section 52 of the *Interpretation Act 1984* applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.
- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish –
- (a) to be a member of the committee; or
 - (b) that a representative of the CEO be a member of the committee,
- the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

15.6 Tenure of committee membership

Tenure of committee membership is dealt with in the Act.

Note: Section 5.11 of the Act states –

5.11. Committee membership, tenure of

- (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,which ever 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.

15.7 Appointment of deputies

The appointment of a person to be a deputy of a member of committee is dealt with in the Act.

Note: Section 5.11A of the Act states –

5.11A. Deputy committee members

- (1) The local government may appoint* a person to be a deputy of a member of a committee and may terminate such an appointment* at any time.

*Absolute majority required.
- (2) A person who is appointed as a deputy of a member of a committee is to be –
 - (a) if the member of the committee is a council member – a council member; or
 - (b) if the member of the committee is an employee – an employee; or
 - (c) if the member of the committee is not a council member or an employee- a person who is not a council member or an employee; or
 - (d) if the member of the committee is a person appointed under section 5.10(5) – a person nominated by the CEO.
- (3) A deputy of a member of a committee may perform the functions of the member when the member is unable to do so by reason of illness, absence or other cause.

- (4) A deputy of a member of a committee, while acting as a member, has all the functions of and all the protection given to a member.

15.8 Resignation of committee members

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

Note: Regulation 4 of the *Local Government (Administration) Regulations 1996* states –

4. Committee members, resignation of

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.

15.9 Register of delegations to committees

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

Note: Section 5.18 of the Act states –

5.18. Register of delegations to committees

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.

15.10 Local law to apply

This local law applies generally to committee meetings except for clause 7.1, in respect of members seating and clause 7.8 in respect of limitation on member's speaking.

Part 16 - Meeting of electors

16.1 Term used: electors

For the purposes of this Part of this local law the term **electors** has additional meaning as giving to it under the Act.

Note: Section 5.26 of the Act states –

5.26. Term used: electors

In this Subdivision —

electors includes ratepayers.

16.2 Electors' general meetings

Electors' general meetings are dealt with in the Act.

Note: Section 5.27 of the Act states –

5.27. Electors' general meetings

- (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.

16.3 Matters for discussion at general electors' meeting

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

Note: Regulation 15 of the *Local Government (Administration) Regulations 1996* states –

15. Matters to be discussed at general meeting (Act s.5.27(3))

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.

16.4 Electors' special meetings

Electors' special meetings are dealt with in the Act.

Note: Section 5.28 of the Act states –

5.28. Electors' special meetings

- (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 major or president but not more than 35 days after the day on which he or she received the request.

16.5 Requests for electors' special meetings

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

Note: Regulation 16 of the *Local Government (Administration) Regulations 1996* states –

16. Request for special meeting, form of (Act s. 5.28(2))

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

16.6 Convening electors' meetings

Convening electors' meetings is dealt with in the Act.

Note: Section 5.29 of the Act states –

5.29. Convening electors' meetings

- (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 the notice is first given and is to continue in the prescribed way until the meeting has been held.

16.7 Who presides at electors' meetings

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

Note: Section 5.30 of the Act states –

5.30. Who presides at electors' meetings

- (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.

16.8 Procedure for electors' meetings

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

Note: Section 5.31 of the Act states –

5.31. Procedure for electors' meetings

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.

Note: Regulation 18 of the *Local Government (Administration) Regulations 1996* states –

18. Procedure at meeting (Act s. 5.31)

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.

- (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 this local law.

16.9 Participation of non-electors

A person who is not an elector must not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits him or her to do so.

16.10 Voting at electors' meetings

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

Note: Regulation 17 of the *Local Government (Administration) Regulations 1996* states –

17. Voting at meeting (Act s. 5.31)

- (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.

16.11 Minutes of electors' meetings

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

Note: Section 5.32 of the Act states –

5.32. Minutes of electors' meetings

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.

16.12 Decisions made at electors' meetings

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

Note: Section 5.33 of the Act states –

5.33. Decisions made at electors' meetings

- (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.

Part 17 - Breach of this local law

17.1 Breach of this local law by Mayor or Councillors

A breach of a provision of this local law by the Mayor or Councillors is dealt with in the Rules of Conduct Regulations and the Act.

Note: Section 5.105 of the Act states –

5.105. Breaches by council members

- (1) A council member commits a minor breach if the council member—
 - (a) contravenes a rule of conduct ; or
 - (b) contravenes a local law under this Act, contravention of which the regulations specify to be a minor breach.
- (1A) Subsection (1) extends to the contravention of a rule of conduct that occurred when the council member was a candidate.
- (1B) Regulations cannot specify that contravention of a local law under this Act is a minor breach if contravention of the local law would, in addition to being a minor breach under subsection (1), also be a serious breach under subsection (3).
- (2) A minor breach is a recurrent breach if it occurs after the council member has been found under this Division to have committed 2 or more other minor breaches.
- (3) A council member who commits any offence under a written law, other than a local law made under this Act, of which it is an element that the offender is a council member or is a person of a description that specifically includes a council member commits a serious breach.

Note: Regulation 34D of the *Local Government (Administration) Regulations 1996*

34D. Contravention of local law as to conduct (Act s5.105(1)(b))

- (1) In this regulation -

Local law as to conduct means a local law relating to the conduct of people at council or committee meetings.

- (2) The contravention of a local law as to conduct is a minor breach for the purposes of section 5.105(1)(b) of the Act.

17.2 Who can complain

Who can complain in respect of a breach of this local law is dealt with in the Act.

Note: Section 5.107 to 5.109 of the Act states –

5.107. Complaining to complaints officer of minor breach

- (1) A person who has reason to believe that a council member has committed a minor breach may complain of the breach by sending to the complaints officer a complaint in accordance with subsection (2).
- (2) The complaint has to be made in writing, in a form approved by the Minister, giving details of —
- (a) who is making the complaint; and
 - (b) who is alleged to have committed the breach; and
 - (c) the contravention that is alleged to have resulted in the breach; and
 - (d) any other information that the regulations may require.
- (3) Within 14 days after the day on which the complaints officer receives the complaint, the complaints officer is required to —
- (a) give to the person making the complaint an acknowledgment in writing that the complaint has been received; and
 - (b) give to the council member about whom the complaint is made a copy of the complaint; and
 - (c) send —
 - (i) the complaint; and
 - (ii) anything the complaints officer has that is relevant to the complaint including, where relevant, details of any 2 or more minor breaches that the council member has previously been found to have committed,to the member of the primary standards panel who is appointed under Schedule 5.1 clause 2(a).
- (4) A person can make a complaint under this section within 6 months after the breach alleged in the complaint occurred, but not later.

5.108. Departmental CEO may send complaint of minor breach to complaints officer

- (1) If it appears to the Departmental CEO that a complaint a person seeks to make under section 5.114 discloses a minor breach, the Departmental CEO may send the complaint to the complaints officer of the local government concerned.
- (2) Within 14 days after the day on which the complaints officer receives the complaint, the complaints officer is required to —

- (a) give to the person who sent the complaint to the Departmental CEO written notice that the complaint is to be dealt with as a complaint of a minor breach; and
 - (b) give to the council member about whom the complaint is made a copy of the complaint; and
 - (c) send —
 - (i) the complaint; and
 - (ii) anything the complaints officer has that is relevant to the complaint including, where relevant, details of any 2 or more minor breaches that the council member has previously been found to have committed,

to the member of the primary standards panel who is appointed under Schedule 5.1 clause 2(a).
- (3) The Departmental CEO can send a complaint to a complaints officer under this section within 6 months after the breach alleged in the complaint occurred, but not later.

5.109. Complaint initiated by complaints officer

- (1) A person who is a complaints officer may make a complaint of a minor breach by —
 - (a) preparing the complaint in the form required under section 5.107(2); and
 - (b) giving the council member about whom the complaint is made a copy of the complaint; and
 - (c) sending —
 - (i) the complaint; and
 - (ii) anything the complaints officer has that is relevant to the complaint including, where relevant, details of any 2 or more minor breaches that the council member has previously been found to have committed,

to the member of the primary standards panel who is appointed under Schedule 5.1 clause 2(a).
- (2) A complaints officer can make a complaint under this section within 6 months after the breach alleged in the complaint occurred, but not later.

17.3 Penalty for breach

A person who breaches a provision of this local law commits an offence.

Penalty: \$1,000, and daily penalty of \$100

17.4 Who can prosecute

Who can prosecute is dealt with in the Act.

Note: Section .9.24(2) of the Act states –

9.24. Prosecutions, commencing

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

Local Government Act 1995
City of Joondalup
Meeting Procedures Local Law 2013

SCHEDULE 1

PETITION OF ELECTORS OF THE CITY OF JOONDALUP

To the Mayor and Councillors of the City of Joondalup,

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

(Set out concise statement of facts and the action sought)

Correspondence in respect of this petition should be addressed to:

(State the name and full address of the relevant person)

The names and addresses of the petitioners are as follows:

DATE	FULL NAME	ADDRESS	SIGNATURE
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Dated 24th of September 2013.

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

.....
TROY PICKARD
MAYOR

.....
GARRY HUNT
CHIEF EXECUTIVE OFFICER