

**LG301\***

**LOCAL GOVERNMENT ACT 1995**

*City of Perth*

**STANDING ORDERS AMENDMENT LOCAL LAW 2012**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the City of Perth resolved on 15 May 2012 to make the following local law.

**1 Citation**

This local law may be cited as the *City of Perth Standing Orders Amendment Local Law 2012*.

**2 Commencement**

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

**3 Principal Local Law Amended**

The City of Perth Standing Orders Local Law 2009, as published in the *Government Gazette* on 13 October 2009, is referred to as the principal local law. The principal local law is amended as follows.

**4 Amendment**

4.1 Subclause 4.3(2)(b) amended

Immediately after the word “apologies” insert “and members on leave of absence”.

4.2 Subclause 4.3(2) amended

In subclause 4.3(2) delete paragraph (d) and redesignate paragraphs numbered “(e)” through “(m)” to numbers “(d)” through to “(l)” respectively.

4.3 Subclause 4.12(3) amended

Immediately after the word “responsible” insert “unless, in the opinion of the Presiding Member, the matter is one of significant public interest or importance”.

4.4 Subclause 4.12(6) amended

Immediately after the word “objectionable” delete “; or” and insert “.” and delete sub clause 4.12 (6) (b).

4.5 Subclause 5.2(6) amended

Renumber subclause 5.2(6) to 5.2(6)(a) and immediately before the word “unless” insert “Subject to 5.2(6)(b)”.

4.6 New subclause 5.2(6)(b) inserted

Insert a new subclause as follows—

“5.2(6)(b) In the event that no members of the public return 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.”

4.7 Subclause 5.13(1)(c) amended

Immediately after the word “otherwise” insert “or, in the opinion of the CEO, the reason for the confidentiality ceases to exist”.

4.8 Clause 6.9 amended

In the heading of Clause 6.9 replace the words “Other persons” with “Committee members”.

4.9 Subclause 6.9(1)(a) amended

Delete the words “an employee and” and immediately after the word “Committee” insert “who is appointed under Section 5.10(1)(a) of the Local Government Act 1995”.

4.10 Clause 7.5 amended

Delete the numbers “(1)” and “(2)”.

4.11 New clause 7.5A inserted

Immediately after the words “or other person.” in Clause 7.5, insert a new clause heading “7.5A Specific words to be recorded”.

4.12 Subclause 7.10(3) amended

Immediately after the reference to “(2)” insert “(b)”.

4.13 Subclause 7.12(2) amended

Delete “Subject to subclause (3),”.

4.14 Subclause 7.12(3) amended

Delete subclause (3) and insert—

“(3) A question put by a member is to be direct and to the point and is not to be prefaced by comment or other information except where that information is required for the question to be adequately understood.”

4.15 Clause 8.4 amended

Immediately after the words “any further part in” delete the words “that meeting” and insert the words “the debate on that item”.

---

Dated 18 May 2012.

The common seal of the City of Perth was affixed by a resolution of the Council in the presence of—

LISA SCAFFIDI, The Rt Hon Lord Mayor.  
FRANK EDWARDS, Chief Executive Officer.

---

!2012084GG!

**WESTERN  
AUSTRALIAN  
GOVERNMENT**  
**Gazette**

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041



**PERTH, THURSDAY, 31 MAY 2012 No. 84**

**SPECIAL**

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 3.30 PM

© STATE OF WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

**SHIRE OF BROOKTON**

**ACTIVITIES ON  
THOROUGHFARES AND  
TRADING IN THOROUGHFARES  
AND PUBLIC PLACES LOCAL  
LAW 2012**



## LOCAL GOVERNMENT ACT 1995

### SHIRE OF BROOKTON

## ACTIVITIES ON THOROUGHFARES AND TRADING IN THOROUGHFARES AND PUBLIC PLACES LOCAL LAW 2012

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Brookton resolved on 19 April 2012 to make the following local law.

### PART 1 — PRELIMINARY

#### 1.1 Citation

This local law is cited as the *Shire of Brookton Activities on Thoroughfares and Trading in Thoroughfares and Public Places Local Law 2012*.

#### 1.2 Commencement

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

#### 1.3 Application

This local law applies throughout the district.

#### 1.4 Definitions

In this local law unless the context otherwise requires—

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

**applicant** means a person who applies for a permit;

**authorised person** means a person appointed by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

**bicycle** has the meaning given to it in the Code;

**built-up area** has the meaning given to it in the Code;

**bulk rubbish container** means a bin or container designed or used for holding a substantial quantity of rubbish and which is unlikely to be lifted without mechanical assistance, but does not include a bin or container used in connection with the local government's regular domestic rubbish collection service;

**carriageway** has the meaning given to it in the Code;

**CEO** means the chief executive officer or and acting chief executive officer of the local government;

**Code** means the *Road Traffic Code 2000*;

**commencement day** means the day on which this local law comes into operation;

**Council** means the council of the local government;

**crossing** means a crossing giving access from a public thoroughfare to—

(a) private land; or

(b) a private thoroughfare serving private land;

**crossover** has the same meaning as crossing;

**district** means the district of the local government;

**footpath** has the meaning given to it in the Code;

**garden** means any part of a thoroughfare planted, developed or treated, otherwise than as a lawn, with one or more plants;

**intersection** has the meaning given to it in the Code;

**kerb** includes the edge of a carriageway;

**lawn** means any part of a thoroughfare which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government;

**liquor** has the meaning given to it in section 3 of the *Liquor Control Act 1988*;

**local government** means the Shire of Brookton;

**local government property** means anything except a thoroughfare—

- (a) which belongs to the local government;
- (b) of which the local government is the management body under the *Land Administration Act 1997*; or
- (c) which is an “otherwise unvested facility” within section 3.53 of the Act;

**local planning scheme** means a local planning scheme of the local government made under the *Planning and Development Act 2005*;

**lot** has the meaning given to it in the *Planning and Development Act 2005*;

**nuisance** means—

- (a) any thing, condition, circumstance or state of affairs which is injurious or dangerous to the health of a reasonable person, or which has a disturbing effect on the state of reasonable physical, mental or social well-being of a person;
- (b) any thing a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; and
- (c) any thing a person does on public or private land which detracts from or interferes with the enjoyment or value of lands owned by another person;

**owner or occupier** in relation to land does not include the local government;

**permissible verge treatment** means any one of the 4 treatments described in clause 2.7(2), and includes any reticulation pipes and sprinklers;

**permit** means a permit issued under this local law;

**permit holder** means a person who holds a valid permit;

**person** does not include the local government;

**premises** for the purpose of the definition of “public place” in both this clause and clause 6.1, means a building or similar structure, but does not include a carpark or a similar place;

**public place** includes any thoroughfare or place which the public are allowed to use, whether or not the thoroughfare or place is on private property, but does not include—

- (a) premises on private property from which trading is lawfully conducted under a written law; and
- (b) local government property;

**Regulations** means the *Local Government (Functions and General) Regulations 1996*;

**sign** includes a notice, flag, mark, structure or device on which may be shown words, numbers, expressions or symbols;

**thoroughfare** has the meaning given to it in the Act, but does not include a private thoroughfare which is not under the management control of the local government;

**townsite** means the townsites within the district which are—

- (a) constituted under section 26(2) of the *Land Administration Act 1997*; or
- (b) referred to in clause 37 of Schedule 9.3 of the Act;

**vehicle** includes—

- (a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise; and
- (b) an animal being ridden or driven,

but excludes—

- (a) a wheel-chair or any device designed for use by a physically impaired person on a footpath; and
- (b) a pram, a stroller or a similar device; and

**verge** means that part of a thoroughfare between the carriageway and the land which abuts the thoroughfare, but does not include any footpath.

## PART 2—ACTIVITIES ON THOROUGHFARES AND PUBLIC PLACES

### *Division 1—General*

#### 2.1 General prohibitions

A person shall not—

- (a) plant any plant which exceeds or which may exceed 0.75m in height on a thoroughfare so that the plant is within 10m of an intersection, or plant any plant, other than grass and similar plants, within 6m of an intersection;
- (b) damage a lawn or a garden or remove any plant or part of a plant from a lawn or a garden unless—
  - (i) the person is the owner or the occupier of the lot abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or
  - (ii) the person is acting under the authority of a written law;

- (c) plant any plant (except grass or a similar plant) on a thoroughfare so that it is within 2m of a carriageway;
- (d) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;
- (e) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;
- (f) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare; or
- (g) within a mall, arcade or verandah of a shopping centre, ride any bicycle, skateboard, rollerblades or similar device.

## **2.2 Activities allowed with a permit — general**

- (1) A person shall not, without a permit—
- (a) dig or otherwise create a trench through or under a kerb or footpath;
  - (b) subject to Division 3 of this Part, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government;
  - (c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;
  - (d) cause any obstruction to a water channel or a water course in a thoroughfare;
  - (e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;
  - (f) damage a thoroughfare;
  - (g) light any fire or burn any thing on a thoroughfare other than in a stove or fireplace provided for that purpose or under a permit issued under clause 5.13;
  - (h) fell any tree onto a thoroughfare;
  - (i) unless installing a permissible verge treatment—
    - (i) lay pipes under or provide taps on any verge; or
    - (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;
  - (j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;
  - (k) on a public place use anything or do anything so as to create a nuisance;
  - (l) place or cause to be placed on a thoroughfare a bulk rubbish container; or
  - (m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare.
- (2) The local government may exempt a person from compliance with subclause (1)—
- (a) if that person complies with a policy issued by the local government issued under clause 7.5 in relation to a specific activity in a thoroughfare, verge or footpath; or
  - (b) on the application of that person.

## **2.3 No possession and consumption of liquor on thoroughfare**

- (1) A person shall not consume any liquor or have in her or his possession or under her or his control any liquor on a thoroughfare unless—
- (a) that is permitted under the *Liquor Control Act 1988* or under another written law; or
  - (b) the person is doing so in accordance with a permit.
- (2) Subclause (1) does not apply where the liquor is in a sealed container.

### *Division 2—Verge treatments*

#### Subdivision 1—Preliminary

## **2.4 Interpretation**

In this Division, unless the context otherwise requires—

**acceptable material** means any material which will create a hard surface, and which appears on a list of acceptable materials maintained by the local government.

## **2.5 Application**

This Division only applies to the townsite.

#### Subdivision 2—Permissible verge treatments

## **2.6 Permissible verge treatments**

- (1) An owner or occupier of land which abuts on a verge may on that part of the verge directly in front of her or his land install a permissible verge treatment.

- (2) The permissible verge treatments are—
- (a) the planting and maintenance of a lawn;
  - (b) the planting and maintenance of a garden provided that—
    - (i) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare; and
    - (ii) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 2m along that part of the verge immediately adjacent to the kerb;
  - (c) the installation of an acceptable material; or
  - (d) the installation over no more than one third of the area of the verge (excluding any vehicle crossing) of an acceptable material in accordance with paragraph (c), and the planting and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b).

### **2.7 Only permissible verge treatments to be installed**

(1) A person shall not install or maintain a verge treatment which is not a permissible verge treatment.

(2) The owner and occupier of the lot abutting a verge treatment referred to in subclause (1) are each to be taken to have installed and maintained that verge treatment for the purposes of this clause and clause 2.8.

### **2.8 Obligations of owner or occupier**

An owner or occupier who installs or maintains a permissible verge treatment shall—

- (a) keep the permissible verge treatment in a good and tidy condition and ensure, where the verge treatment is a garden or lawn, that a footpath on the verge and a carriageway adjoining the verge is not obstructed by the verge treatment;
- (b) not place any obstruction on or around the verge treatment;
- (c) not disturb a footpath on the verge;
- (d) ensure the verge treatment does not cause a sight distance obstruction to any person using a footpath on the verge or a carriageway or crossing adjoining the verge or in proximity to it;
- (e) ensure that the verge treatment does not damage or obstruct a drain, manhole, gully, inspection pit, channel, kerb, or tree planted by the local government; and
- (f) ensure that any sprinklers or pipes installed to irrigate a verge treatment—
  - (i) do not protrude above the level of the lawn when not in use,
  - (ii) are not used at such times so as to cause unreasonable inconvenience to pedestrians or other persons, and
  - (iii) do not otherwise present a hazard to pedestrians or other persons.

### **2.9 Notice to owner or occupier**

The local government may give a notice in writing to the owner or the occupier of a lot abutting on a verge to make good, within the time specified in the notice, any breach of a provision of this Division.

#### Subdivision 3—Existing verge treatments

### **2.10 Transitional provision**

(1) In this clause—

**former provisions** means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(2) A verge treatment which—

- (a) was installed prior to the commencement day; and
- (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

#### Subdivision 4—Public works

### **2.11 Power to carry out public works on verge**

Where the local government or an authority empowered to do so under a written law disturbs a verge, the local government or the authority—

- (a) is not liable to compensate any person for that disturbance;
- (b) may backfill with sand, if necessary, any garden or lawn; and
- (c) is not liable to replace or restore any—
  - (i) verge treatment and, in particular, any plant or any acceptable material or other hard surface; or
  - (ii) sprinklers, pipes or other reticulation equipment.

*Division 3—Property numbers*

Subdivision 1—Preliminary

**2.12 Interpretation**

In this Division, unless the context requires otherwise—

**number** means a number of a lot with or without an alphabetical suffix indicating the address of the lot by reference to a thoroughfare.

Subdivision 2—Assignment and marking of numbers

**2.13 Assignment of numbers**

The local government may assign a number to a lot in the district and may assign another number to the lot instead of that previously assigned.

*Division 4—Fencing*

**2.14 Public place—Item 4(1) of Division 1, Schedule 3.1 of Act**

The following places are specified as a public place for the purpose of item 4(1) of Division 1 of Schedule 3.1 of the Act—

- (a) a public place, as that term is defined in clause 1.4; and
- (b) local government property.

*Division 5—Signs erected by the local government*

**2.15 Signs**

(1) A local government may erect a sign on a public place specifying any conditions of use which apply to that place.

(2) A person shall comply with a sign erected under subclause (1).

(3) A condition of use specified on a sign erected under subclause (1) is to be for the purpose of giving notice of the effect of a provision of this local law.

**2.16 Transitional**

Where a sign erected on a public place has been erected under a local law of the local government repealed by this local law, then on and from the commencement day, it is to be taken to be a sign erected under clause 2.15 if—

- (a) the sign specifies a condition of use relating to the public place which gives notice of the effect of a provision of this local law; and
- (b) the condition of use specified is not inconsistent with any provision of this local law.

*Division 6—Driving on a closed thoroughfare*

**2.17 No driving on closed thoroughfare**

(1) In this clause—

**closed thoroughfare** means a thoroughfare wholly or partially closed under section 3.50 or 3.50A of the Act.

(2) A person shall not drive or take a vehicle on a closed thoroughfare unless—

- (a) it is in accordance with any limits or exceptions specified in the order made under section 3.50 of the Act; or
- (b) the person has first obtained a permit.

**PART 3—ADVERTISING SIGNS ON THOROUGHFARES**

*Division 1—Preliminary*

**3.1 Interpretation**

In this Part, unless the context otherwise requires—

**advertising sign** means a sign used for the purpose of advertisement and includes an “election sign”;

**direction sign** means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

**election sign** means a sign or poster which advertises any aspect of a forthcoming Federal, State or Local Government election;

**portable direction sign** means a portable free standing direction sign; and

**portable sign** means a portable free standing advertising sign.

*Division 2—Permit*

**3.2 Advertising signs and portable direction signs**

- (1) A person shall not, without a permit—
- (a) erect or place an advertising sign on a thoroughfare; or
  - (b) post any bill or paint, place or affix any advertisement on a thoroughfare.
- (2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which neither exceeds 500mm in height nor 0.5m<sup>2</sup> in area, provided that the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.
- (3) Notwithstanding subclause (1), a person shall not erect or place an advertising sign—
- (a) on a footpath;
  - (b) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2.5m;
  - (c) on or within 3m of a carriageway;
  - (d) in any other location where, in the opinion of the local government, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or
  - (e) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

**3.3 Matters to be considered in determining application for permit**

In determining an application for a permit for the purpose of clause 3.2(1), the local government is to have regard to—

- (a) any other written law regulating the erection or placement of signs within the district;
- (b) the dimensions of the sign;
- (c) other advertising signs already approved or erected in the vicinity of the proposed location of the sign;
- (d) whether or not the sign will create a hazard to persons using a thoroughfare; and
- (e) the amount of the public liability insurance cover, if any, to be obtained by the applicant.

*Division 3—Conditions on permit*

**3.4 Conditions on portable sign**

If the local government approves an application for a permit for a portable sign, the application is to be taken to be approved subject to the following conditions—

- (a) the portable sign shall—
  - (i) not exceed 1m in height;
  - (ii) not exceed an area of 1m<sup>2</sup> on any side;
  - (iii) relate only to the business activity described on the permit;
  - (iv) contain letters not less than 200mm in height;
  - (v) not be erected in any position other than immediately adjacent to the building or the business to which the sign relates;
  - (vi) be removed each day at the close of the business to which it relates and not be erected again until the business next opens for trading;
  - (vii) be secured in position in accordance with any requirements of the local government;
  - (viii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person; and
  - (ix) be maintained in good condition; and
- (b) no more than 1 portable sign shall be erected in relation to the 1 building or business.

**3.5 Conditions on election sign**

If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare, the application is to be taken to be approved subject to the sign—

- (a) being erected at least 30m from any intersection;
- (b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;
- (c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare, or access to a place by any person;
- (d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;
- (e) being maintained in good condition;
- (f) not being erected until the election to which it relates has been officially announced;
- (g) being removed within 24 hours of the close of polls on voting day;

- (h) not being placed within 100m of any works on the thoroughfare;
- (i) being securely installed;
- (j) not being an illuminated sign;
- (k) not incorporating reflective or fluorescent materials; and
- (l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

## **PART 4—OBSTRUCTING ANIMALS, VEHICLES OR SHOPPING TROLLEYS**

### *Division 1—Animals and vehicles*

#### **4.1 Leaving animal or vehicle in public place or on local government property**

(1) A person shall not leave an animal or a vehicle, or any part of a vehicle, in a public place or on local government property so that it obstructs the use of any part of that public place or local government property, unless that person has first obtained a permit or is authorised to do so under a written law.

(2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.

(3) A person will not contravene subclause (1) where the vehicle is left for a period not exceeding 24 hours.

#### **4.2 Prohibitions relating to animals**

(1) In subclause (2), **owner** in relation to an animal includes—

- (a) an owner of it;
- (b) a person in possession of it;
- (c) a person who has control of it; and
- (d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal shall not—

- (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
- (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place;
- (c) train or race the animal on a thoroughfare; or
- (d) subject to subclause (4), allow an animal to excrete on a thoroughfare.

(3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

(4) An owner of an animal does not commit an offence if the excreta is immediately removed.

#### **4.3 Removal of vehicle or animal**

An authorised person may impound an animal or vehicle left in contravention of clause 4.1.

## **PART 5—ROADSIDE CONSERVATION**

### *Division 1—Preliminary*

#### **5.1 Interpretation**

In this Part—

**MRWA** means Main Roads Western Australia;

**protected flora** has the meaning given to it in section 6(1) of the *Wildlife Conservation Act 1950*;

**rare flora** has the meaning given to it in section 23F of the *Wildlife Conservation Act 1950*;

**Roadside Conservation Committee** means the Roadside Conservation Committee established under the Land Resource Policy Council within the Office of Premier and Cabinet; and

**special environmental area** means an area designated as such under clause 5.7.

#### **5.2 Application**

This Part does not apply to the townsite.

### *Division 2—Flora roads*

#### **5.3 Declaration of flora road**

The local government may declare a thoroughfare which has, in the opinion of the local government, high quality roadside vegetation to be a flora road.

#### **5.4 Construction works on flora roads**

Construction and maintenance work carried out by the local government on a flora road is to be in accordance with the “Code of Practice for Roadside Conservation and Road Maintenance” prepared by the Roadside Conservation Committee.

### **5.5 Signposting of flora roads**

The local government may signpost flora roads with the standard MRWA “flora road” sign.

### **5.6 Driving only on carriageway of flora roads**

(1) A person driving or riding a vehicle on a flora road shall only drive or ride the vehicle on the carriageway.

(2) Subclause (1) does not apply where—

- (a) conditions on the thoroughfare do not reasonably permit a vehicle to remain on the carriageway;
- (b) there is no carriageway; or
- (c) an exemption from the application of subclause (1) has been obtained from the local government.

#### *Division 3—Special environmental areas*

### **5.7 Designation of special environmental areas**

The local government may designate a thoroughfare, or any part of a thoroughfare, as a special environmental area which—

- (a) as protected flora or rare flora; or
- (b) in the opinion of the local government, has environmental, aesthetic or cultural significance.

### **5.8 Marking of special environmental areas**

The local government is to mark and keep a register of each thoroughfare, or part of a thoroughfare, designated as a special environmental area.

#### *Division 4—Planting in thoroughfares*

### **5.9 Permit to plant**

A person shall not plant any plant or sow any seeds in a thoroughfare without first obtaining a permit.

### **5.10 Relevant considerations in determining application**

In determining an application for a permit for the purpose of clause 5.9, the local government is to have regard to—

- (a) existing vegetation within that part of the thoroughfare in which the planting is to take place; and
- (b) the diversity of species and the prevalence of the species which are to be planted or sown.

#### *Division 5—Clearance of vegetation*

### **5.11 Permit to clear**

A person shall not clear and maintain in a cleared state, the surface of a thoroughfare within 1m of that person’s land without first obtaining a permit and any other approvals which may be required under any written law.

### **5.12 Application for permit**

In addition to the requirements of clause 7.1(2), a person making an application for a permit for the purpose of clause 5.11 shall submit a sketch plan clearly showing the boundary of the person’s land and the portions of the thoroughfare joining that person’s land which are to be cleared.

#### *Division 6—Fire management*

### **5.13 Permit to burn thoroughfare**

A person shall not burn part of a thoroughfare without first obtaining a permit or unless acting under the authority of any other written law.

### **5.14 Application for permit**

In addition to the requirements of clause 7.1(2), an application for a permit for the purposes of clause 5.13 shall—

- (a) include a sketch plan showing the portions of a thoroughfare which are proposed to be burned; and
- (b) advise of the estimated fire intensity and the measures to be taken to protect upper storey vegetation from the burn.

### **5.15 When application for permit can be approved**

The local government may approve an application for a permit for the purpose of clause 5.13 only if the burning of the particular part of the thoroughfare will—

- (a) reduce a fire hazard and alternative means of reducing that hazard, such as slashing or the use of herbicides, are considered by the local government to be not feasible or more detrimental to native flora and fauna than burning; or

- (b) in the opinion of the local government, be beneficial for the preservation and conservation of native flora and fauna.

#### **5.16 Prohibitions on burning**

Subject to any other written law and notwithstanding anything to the contrary in this local law, an application for a permit for the purpose of clause 5.13 is not to be approved by the local government for burning between 31 August and 1 May of the following year where the intensity of the burn could damage native flora and fauna.

#### *Division 7—Firebreaks*

#### **5.17 Permit for firebreaks on thoroughfares**

A person shall not construct a firebreak on a thoroughfare without first obtaining a permit.

#### **5.18 When application for permit cannot be approved**

- (1) The local government is not to approve an application for a permit for the purpose of clause 5.17 where the thoroughfare is less than 20m wide.
- (2) Subclause (1) does not apply where the firebreak is, in the opinion of the local government, desirable for the protection of roadside vegetation.

#### *Division 8—Commercial wildflower harvesting on thoroughfares*

#### **5.19 General prohibition on commercial wildflower harvesting**

Subject to clause 5.20, a person shall not commercially harvest native flora on a thoroughfare.

#### **5.20 Permit for revegetation projects**

- (1) A person shall not collect seed from native flora on a thoroughfare without first obtaining a permit.
- (2) The local government may approve an application for a permit under subclause (1) only where—
- (a) the seed is required for a revegetation project in any part of the district; and
  - (b) the thoroughfare, or the relevant part of it, is not a special environmental area.
- (3) Unless the local government specifically provides to the contrary on a permit, if the local government approves an application for a permit for the purpose of subclause (1) it is to be taken to be approved subject to the following conditions—
- (a) the collection of the seed is to be carried out so as not to endanger the long time survival of the native flora on the thoroughfare; and
  - (b) any licence or approval which may be required under any other written law is to be obtained by the applicant.

### **PART 6—TRADING IN THOROUGHFARES AND PUBLIC PLACES**

#### *Division 1—Stallholders and traders*

##### *Subdivision 1—Preliminary*

#### **6.1 Interpretation**

In this Division, unless the context otherwise requires—

**Competition Principles Agreement** means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

**public place** includes—

- (a) any thoroughfare or place which the public are allowed to use whether or not the thoroughfare or place is on private property; and
- (b) local government property,

but does not include premises on private property from which trading is lawfully conducted under a written law;

**stall** means a movable or temporarily fixed structure, stand or table in, on or from which goods or services are sold, hired or offered for sale or hire;

**stallholder** means a person in charge of a stall;

**stallholder's permit** means a permit issued to a stallholder;

**trader** means a person who carries on trading;

**trader's permit** means a permit issued to a trader; and

**trading** includes—

- (a) the selling or hiring of, the offering for sale or hire of or the soliciting of orders for goods or services in a public place;
- (b) displaying goods in any public place for the purpose of—
  - (i) offering them for sale or hire;
  - (ii) inviting offers for their sale or hire;

- (iii) soliciting orders for them; or
- (iv) carrying out any other transaction in relation to them; and
- (c) the going from place to place, whether or not public places, and—
  - (i) offering goods or services for sale or hire;
  - (ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or
  - (iii) carrying out any other transaction in relation to goods or services, but does not include—
- (d) the setting up of a stall or the conducting of a business at a stall under the authority of a stallholder's permit;
- (e) the selling or the offering for sale of goods and services to, or the soliciting of orders for goods and services from a person who sells those goods or services;
- (f) the selling or the offering for sale or hire by a person of goods of her or his own manufacture or services which he or she provides; and
- (g) the selling or hiring or the offering for sale or hire of—
  - (i) goods by a person who represents a manufacturer of the goods; or
  - (ii) services by a person who represents a provider of the services, which are only sold directly to consumers and not through a shop.

#### Subdivision 2—Permits

##### **6.2 Stallholder's permit**

- (1) A person shall not conduct a stall on a public place unless that person is—
  - (a) the holder of a valid stallholder's permit; or
  - (b) an assistant specified in a valid stallholder's permit.
- (2) Every application for a stallholder's permit shall—
  - (a) state the full name and address of the applicant;
  - (b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;
  - (c) specify the proposed location of the stall;
  - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;
  - (e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and
  - (f) be accompanied by an accurate plan and description of the proposed stall.

##### **6.3 Trader's permit**

- (1) A person shall not carry on trading unless that person is—
  - (a) the holder of a valid trader's permit; or
  - (b) an assistant specified in a valid trader's permit.
- (2) Every application for a trader's permit shall—
  - (a) state the full name and address of the applicant;
  - (b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;
  - (c) specify the location or locations in which the applicant proposes to trade;
  - (d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;
  - (e) specify the proposed goods or services which will be traded; and
  - (f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

##### **6.4 No permit required to sell newspaper**

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper is not required to obtain a permit.

##### **6.5 Exemptions from requirement to pay fee or to obtain a permit**

- (1) In this clause—
  - charitable organisation*** means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium; and
  - commercial participant*** means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit.

(2) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on—

- (a) on a portion of a public place adjoining the normal place of business of the applicant; or
- (b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.

(3) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

### Subdivision 3—Conduct of stallholders and traders

#### 6.6 Conduct of stallholders and traders

(1) A stallholder while conducting a stall or a trader while trading shall—

- (a) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;
- (b) not display a permit unless it is a valid permit; and
- (c) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the *Trade Measurement Administration Act 2006*.

(2) A stallholder or trader shall not—

- (a) attempt to conduct a business within a distance of 300m of any shop or permanent place of business that is open for business and has for sale any goods or services of the kind being offered for sale by the stall holder or trader;
- (b) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;
- (c) act in an offensive manner;
- (d) use or cause to be used any apparatus or device including any flap or shelf, whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit; or
- (e) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading.

### Division 2—Outdoor eating facilities on public places

#### 6.7 Interpretation

In this Division—

**facility** means an outdoor eating facility or establishment on any part of a public place, but does not include such a facility or establishment on private land;

**permit holder** means the person to whom a permit has been issued for the purpose of clause 6.8; and

**public place** has the meaning given to it in clause 6.1.

#### 6.8 Permit required to conduct facility

A person shall not establish or conduct a facility without a permit.

#### 6.9 Matters to be considered in determining application

In determining an application for a permit for the purpose of clause 6.8, the local government may consider in addition to any other matter it considers relevant, whether or not—

- (a) the facility is conducted in conjunction with and as an extension of food premises which abut on the Facility, and whether the applicant is the person conducting such food premises;
- (b) any abutting food premises are registered in accordance with the *Food Act 2008* and whether the use of the premises is permitted under the town planning scheme;
- (c) the facility will comply with the *Food Act 2008*;
- (d) users of the facility will have access to proper and sufficient sanitary and ablutionary conveniences;
- (e) the facility would—
  - (i) obstruct the visibility or clear sight lines at an intersection of thoroughfares of any person; or
  - (ii) impede pedestrian access; and
- (f) the tables, chairs and other equipment to be used may obstruct or impede the use of the public place for the purpose for which it was designed.

#### 6.10 Obligations of permit holder

(1) The permit holder for a facility shall—

- (a) ensure that the facility is conducted at all times in accordance with the provisions of this local law and the *Food Act 2008*;

- (b) ensure that the eating area is kept in a clean and tidy condition at all times;
- (c) maintain the chairs, tables and other structures in the eating area in a good, clean and serviceable condition at all times;
- (d) be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of any part of the public place arising from the conduct of the facility; and
- (e) be solely responsible for all rates and taxes levied upon the land occupied by the facility.

(2) Whenever, in the opinion of the local government, any work is required to be carried out to a facility, the local government may give a notice to the permit holder for the facility to carry out that work within the time limited by the notice.

(3) In subclause (2), *work* includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of a facility.

### **6.11 Removal of facility unlawfully conducted**

Where a facility is conducted without a permit, or in contravention of a condition of a permit, any tables, chairs, umbrellas or other equipment may be removed by an authorised person and impounded in accordance with the Act.

### **6.12 Use of facility by public**

(1) A person shall not occupy a chair or otherwise use the equipment in a facility the subject of a permit unless the person uses them for the purpose of consuming food or drinks provided by the facility.

(2) A person shall leave a facility when requested to do so by the permit holder.

### **6.13 Temporary removal of facility may be requested**

(1) The permit holder for a facility is to temporarily remove the facility when requested to do so on reasonable grounds by an authorised person or a member of the Police Service or an emergency service in the event of an emergency.

(2) The permit holder may replace the facility removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

## **PART 7—PERMITS**

### *Division 1—Applying for a permit*

#### **7.1 Application for permit**

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

(2) An application for a permit under this local law shall—

- (a) be in the form determined by the local government;
- (b) be signed by the applicant;
- (c) provide the information required by the form;
- (d) contain any other information required, for that particular type of permit, under this local law; and
- (e) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit which is not in accordance with subclause (2).

#### **7.2 Decision on application for permit**

(1) The local government may—

- (a) approve an application for a permit unconditionally or subject to any conditions; or
- (b) refuse to approve an application for a permit.

(2) If the local government approves an application for a permit, it is to issue to the applicant a permit in the form determined by the local government.

(3) If the local government refuses to approve an application for a permit, it is to give written notice of that refusal to the applicant.

(4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).

(5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

### **7.3 Relevant considerations in determining application for permit**

- (1) In determining an application for a permit, the local government is to have regard to—
- (a) any relevant policy of the local government;
  - (b) the National Competition Principles Agreement;
  - (c) the desirability of the proposed activity;
  - (d) the location of the proposed activity; and
  - (e) such other matters as the local government may consider to be relevant in the circumstances of the case.
- (2) The local government may refuse to approve an application for a permit on any one or more of the following grounds—
- (a) that the applicant has committed a breach of any provision of this local law or of any written law relevant to the activity in respect of which the permit is sought;
  - (b) that the applicant is not a desirable or suitable person to hold a permit; or
  - (c) such other grounds as the local government may consider to be relevant in the circumstances of the case.

#### *Division 2—Conditions*

### **7.4 Conditions which may be imposed on a permit**

The local government may approve an application for a permit subject to conditions relating to—

- (a) the payment of a fee;
- (b) the duration and commencement of the permit;
- (c) the commencement of the permit being contingent on the happening of an event;
- (d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;
- (e) the approval of another application for a permit which may be required by the local government under any written law;
- (f) the area of the district to which the permit applies;
- (g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;
- (h) the obtaining of public risk insurance in an amount and on terms reasonably required by the local government; and
- (i) the provision of an indemnity from the permit holder indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder.

### **7.5 Imposing conditions under a policy**

(1) In this clause—

***policy*** means a policy of the local government adopted by the Council containing conditions subject to which an application for a permit may be approved under clause 7.2(1)(a).

(2) Under clause 7.2(1)(a) the local government may approve an application subject to conditions by reference to a policy.

(3) The local government is to give a copy of the policy, or the part of the policy which is relevant to the application for a permit, with the form of permit referred to in clause 7.2(2).

(4) An application for a permit is to be taken not to have been approved subject to the conditions contained in a policy until the local government gives the permit holder a copy of the policy or the part of the policy which is relevant to the application.

(5) Sections 5.94 and 5.95 of the Act shall apply to a policy and for that purpose a policy is to be taken to be information within section 5.94(u)(i) of the Act.

### **7.6 Compliance with and variation of conditions**

(1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and the permit holder shall comply with those conditions as varied.

#### *Division 3—General*

### **7.7 Duration of permit**

A permit is valid for 1 year from the date on which it is issued, unless it is—

- (a) otherwise stated in this local law or in the permit; or
- (b) cancelled under clause 7.11.

### **7.8 Renewal of permit**

(1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.

- (2) The provisions of—
- (a) this Part; and
  - (b) any other provision of this local law relevant to the permit which is to be renewed,
- shall apply, with appropriate modifications, to an application for the renewal of a permit.

### **7.9 Transfer of permit**

- (1) An application for the transfer of a valid permit is to—
- (a) be made in writing;
  - (b) be signed by the permit holder and the proposed transferee of the permit;
  - (c) provide such information as the local government may require to enable the application to be determined; and
  - (d) be forwarded to the CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.
- (2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.
- (3) Where the local government approves an application for the transfer of a permit, the transfer may be effected by—
- (a) an endorsement on the permit signed by the CEO; or
  - (b) issuing to the transferee a permit in the form determined by the local government.
- (4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

### **7.10 Production of permit**

A permit holder is to produce to an authorised person her or his permit immediately upon being required to do so by that authorised person.

### **7.11 Cancellation of permit**

- (1) Subject to clause 8.1, a permit may be cancelled by the local government on any one or more of the following grounds—
- (a) the permit holder has not complied with a—
    - (i) condition of the permit; or
    - (ii) provision of any written law which may relate to the activity regulated by the permit;or
  - (b) if it is relevant to the activity regulated by the permit—
    - (i) the permit holder has become bankrupt, or gone into liquidation;
    - (ii) the permit holder has entered into any composition or arrangement with creditors; or
    - (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder's undertakings or property.
- (2) On the cancellation of a permit the permit holder—
- (a) shall return the permit as soon as practicable to the local government; and
  - (b) is to be taken to have forfeited any fees paid in respect of the permit.

## **PART 8—OBJECTIONS AND REVIEW**

### **8.1 Review of a decision**

When the local government makes a decision—

- (a) under clause 7.2(1); or
- (b) as to whether it will renew, vary, or cancel a permit,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

## **PART 9—MISCELLANEOUS NOTICES**

### **9.1 Notice to redirect or repair sprinkler**

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring the owner or the occupier or both to move or alter the direction of the sprinkler or other watering equipment.

### **9.2 Hazardous plants**

- (1) Where a plant in a garden creates or may create a hazard for any person using a thoroughfare, the local government may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.
- (2) Subclause (1) does not apply where the plant was planted by the local government.

### 9.3 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare has been damaged, the local government may by notice to the person who caused the damage order the person to repair or replace that portion of the thoroughfare to the satisfaction of the local government.

### 9.4 Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the property which abuts on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, require the relevant person to remove the thing.

## PART 10—ENFORCEMENT

### *Division 1—Notices given under this local law*

#### 10.1 Offence to fail to comply with notice

Whenever the local government gives a notice under this local law requiring a person to do any thing, if the person fails to comply with the notice, the person commits an offence.

#### 10.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 10.1, the local government may do the thing specified in the notice and recover from that person, as a debt, the costs incurred in so doing.

### *Division 2—Offences and penalties*

#### *Subdivision 1—General*

#### 10.3 Offences

- (1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.
- (2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued.

#### *Subdivision 2—Infringement notices and modified penalties*

#### 10.4 Prescribed offences

- (1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.
- (3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that—
  - (a) commission of the prescribed offence is a relatively minor matter; and
  - (b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

#### 10.5 Forms

Unless otherwise specified, for the purposes of this local law—

- (a) where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;
- (b) the form of the infringement notice given under section 9.16 of the Act is that of Form 2 in Schedule 1 of the Regulations; and
- (c) the form of the notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

### **Schedule 1 PRESCRIBED OFFENCES**

[cl. 10.4(1)]

Clause	Description	Modified Penalty \$
2.1(a)	Plant of 0.75m in height on thoroughfare within 10m of intersection, or any plant other than grass or similar plant within 6m of an intersection	125
2.1(b)	Damaging lawn or garden	125
2.1(c)	Plant (except grass) on thoroughfare within 2m of carriageway	125
2.1(d)	Placing hazardous substance on footpath	200

<b>Clause</b>	<b>Description</b>	<b>Modified Penalty \$</b>
2.1(e)	Damaging or interfering with signpost or structure on thoroughfare	350
2.1(f)	Playing games so as to impede vehicles or persons on thoroughfare	125
2.1(g)	Riding of bicycle, skateboard or similar device on mall or verandah of shopping centre	125
2.2(1)(a)	Digging a trench through a kerb or footpath without a permit	200
2.2(1)(b)	Throwing or placing anything on a verge without a permit	200
2.2(1)(c)	Causing obstruction to vehicle or person on thoroughfare without a permit	200
2.2(1)(d)	Causing obstruction to water channel on thoroughfare without a permit	250
2.2(1)(e)	Placing or draining offensive fluid on thoroughfare without a permit	250
2.2(1)(g)	Lighting a fire on a thoroughfare without a permit	350
2.2(1)(h)	Felling tree onto thoroughfare without a permit	200
2.2(1)(i)	Installing pipes or stone on thoroughfare without a permit	200
2.2(1)(j)	Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit	350
2.2(1)(k)	Creating a nuisance on a thoroughfare without a permit	200
2.2(1)(l)	Placing a bulk rubbish container on a thoroughfare without a permit	200
2.2(1)(m)	Interfering with anything on a thoroughfare without a permit	200
2.3(1)	Consumption or possession of liquor on thoroughfare	200
2.7(1)	Installation of verge treatment other than permissible verge treatment	250
2.8	Failure to maintain permissible verge treatment or placement of obstruction on verge	200
2.9	Failure to comply with notice to rectify default	200
2.15(2)	Failure to comply with sign on public place	125
2.17(2)	Driving or taking a vehicle on a closed thoroughfare	350
3.2(1)	Placing advertising sign or affixing any advertisement on a thoroughfare or verge without a permit	125
3.2(3)	Erecting or placing of advertising sign in a prohibited area	125
4.1(1)	Animal or vehicle obstructing a public place or local government property	125
4.2(2)(a)	Animal on thoroughfare when not led, ridden or driven	125
4.2(2)(b)	Animal on public place with infectious disease	125
4.2(2)(c)	Training or racing animal on thoroughfare	125
4.2(2)(d)	Failure to remove animal excreta	125
4.2(3)	Horse led, ridden or driven on thoroughfare in built-up area	125
5.6(1)	Driving a vehicle on other than the carriageway of a flora road	300
5.9	Planting in a thoroughfare without a permit	300
5.11	Failure to obtain a permit to clear a thoroughfare	500
5.13	Burning of a thoroughfare without a permit	500
5.17	Construction of firebreak on thoroughfare without a permit	500
5.19	Commercial harvesting of native flora on thoroughfare	500
5.20(1)	Collecting seed from native flora on thoroughfare without a permit	350
6.2(1)	Conducting of stall in public place without a permit	350
6.3(1)	Trading without a permit	350
6.6(1)(a)	Failure of stallholder or trader to display or carry permit	125
6.6(1)(b)	Stallholder or trader not displaying valid permit	125
6.6(1)(c)	Stallholder or trader not carrying certified scales when selling goods by weight	125
6.6(2)	Stallholder or trader engaged in prohibited conduct	125
6.8	Establishment or conduct of outdoor eating facility without a permit	350
6.10	Failure of permit holder of outdoor eating facility to comply with obligations	200
6.12(1)	Use of equipment or outdoor eating facility without purchase of food or drink from facility	125
6.12(2)	Failure to leave outdoor eating facility when requested to do so by permit holder	125

<b>Clause</b>	<b>Description</b>	<b>Modified Penalty \$</b>
7.6	Failure to comply with a condition of a permit	200
7.10	Failure to produce permit on request of authorised person	125
10.1	Failure to comply with notice given under local law	200
	All other offences not specified	125

---

Dated: 23 April 2012.

The Common Seal of the Shire of Brookton was affixed by authority of a resolution of the Council in the presence of—

B. COOTE, Shire President.  
G. CLARK, Chief Executive Officer.

---

**LG301\***

**LOCAL GOVERNMENT ACT 1995**

*Shire of Brookton*

**REPEAL LOCAL LAW 2012**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Brookton resolved on 17 May 2012 to adopt the following local law.

**1 Citation**

This local law is cited as the *Shire of Brookton Repeal Local Law 2012*.

**2 Operation**

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

**3 Repeal**

The following Local Laws are hereby repealed—

- (a) Construction of Television Masts and Antennae as published in the *Government Gazette* on 27 May 1960;
- (b) Brookton District Swimming Pool as published in the *Government Gazette* on 15 November 1960, and as amended and published in the *Government Gazette* on 24 December 1976, 2 June 1978, 22 July 1988, and 20 October 1989;
- (c) Street Lawns and Gardens Draft Model No. 11 as published in the *Government Gazette* on 19 June 1963;
- (d) Prevention of Damage to Streets Draft Model No. 1 as published in the *Government Gazette* on 19 June 1963;
- (e) Extractive Industries Draft Model No. 9 as published in the *Government Gazette* on 19 June 1963;
- (f) Standing Orders Draft Model No. 4 as published in the *Government Gazette* on 29 August 1963;
- (g) House Numbering as published in the *Government Gazette* on 3 October 1963;
- (h) Control of Hawkers Draft Model No. 6 as published in the *Government Gazette* on 22 May 1972;
- (i) Control of Vehicles Driven on Land which is vested in or under the Care, Control or Management of the Shire of Brookton as published in the *Government Gazette* on 29 December 1972;
- (j) Use of Halls and Public Buildings as published in the *Government Gazette* on 15 January 1982; and
- (k) Removal and Disposal of Obstructing Animals or Vehicles as published in the *Government Gazette* on 28 October 1994.

Dated: 21 May 2012.

The Common Seal of the Shire of Brookton was affixed by authority of a resolution of the Council in the presence of—

B. J. COOTE, Shire President.  
G. A. CLARK, Chief Executive Officer.

!2012087GG!

**G** WESTERN  
AUSTRALIAN  
GOVERNMENT  
**Gazette**

ISSN 1448-949X

PRINT POST APPROVED PP665002/00041



PERTH, FRIDAY, 1 JUNE 2012 No. 87

**SPECIAL**

PUBLISHED BY AUTHORITY JOHN A. STRIJK, GOVERNMENT PRINTER AT 1.00 PM

© STATE OF WESTERN AUSTRALIA

LOCAL GOVERNMENT ACT 1995

SHIRE OF CUE

STANDING ORDERS  
LOCAL LAW 2012



**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF CUE

**STANDING ORDERS LOCAL LAW 2012**

## CONTENTS

**PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Purpose and effect
- 1.4 Application
- 1.5 Interpretation
- 1.6 Repeal

**PART 2—CALLING AND CONVENING MEETINGS**

- 2.1 Ordinary and special Council meetings
- 2.2 Calling Council meetings
- 2.3 Calling Committee meetings
- 2.4 Convening ordinary and special Council meetings
- 2.5 Convening ordinary and special Committee meetings

**PART 3—PRESIDING MEMBER AND QUORUM**

- 3.1 Who presides at Council meetings
- 3.2 When Deputy President can preside
- 3.3 Who presides if no President or Deputy President
- 3.4 Election of Presiding Members and Deputy Presiding Members of Committees
- 3.5 Functions of Deputy Presiding Members
- 3.6 Who acts if no Presiding Member
- 3.7 Quorum for meetings
- 3.8 Quorum to be present
- 3.9 Procedure if quorum not present
- 3.10 Loss of quorum during a meeting
- 3.11 Debate on motion to be resumed
- 3.12 Names to be recorded

**PART 4—BUSINESS OF THE MEETING**

- 4.1 Business to be specified in agenda
- 4.2 Meeting to proceed to business
- 4.3 Order of business
- 4.4 Leave of absence
- 4.5 Confirmation of minutes
- 4.6 Petitions
- 4.7 Announcements by the Presiding Member
- 4.8 Questions by members of which due notice has been given
- 4.9 Reports
- 4.10 Motions by members of which previous notice has been given
- 4.11 Representation on external bodies
- 4.12 Urgent business
- 4.13 General business
- 4.14 Closure

**PART 5—PUBLIC PARTICIPATION**

- 5.1 Meetings generally open to the public
- 5.2 Procedure to close meetings to the public
- 5.3 Question time for the public
- 5.4 Question time for the public at certain meetings

- 5.5 Minimum question time for the public
- 5.6 Procedures for question time for the public
- 5.7 Other procedures for question time for the public
- 5.8 Distinguished visitors
- 5.9 Deputations
- 5.10 Attending Committee meetings as an observer
- 5.11 Public inspection of agenda materials
- 5.12 Public access to unconfirmed minutes of meetings
- 5.13 Confidentiality of information withheld
- 5.14 Media attendance
- 5.15 Recording of meeting
- 5.16 Prevention of disturbance

#### **PART 6—DISCLOSURE OF INTERESTS**

- 6.1 Disclosure of members' financial and proximity interests
- 6.2 Meeting to be informed of financial and proximity interests
- 6.3 Disclosing member not to participate
- 6.4 When disclosing members can participate
- 6.5 Invitation to return to provide information
- 6.6 Substitution of deputy at Committee meetings
- 6.7 Disclosure by members who are observers at Committee meetings
- 6.8 Disclosure of impartiality interests
- 6.9 Other persons to disclose impartiality interests
- 6.10 On-going disclosure required
- 6.11 Approval by Minister to be recorded

#### **PART 7—CONDUCT OF MEMBERS**

- 7.1 Official titles to be used
- 7.2 Members to occupy own seats
- 7.3 Members not to interrupt
- 7.4 No adverse reflection on decision
- 7.5 Offensive language
- 7.6 Direction to withdraw
- 7.7 Members who wish to speak
- 7.8 Priority of speaking
- 7.9 The Presiding Member may take part in debates
- 7.10 Relevance
- 7.11 Limitation on members speaking
- 7.12 Questions during debate
- 7.13 Re-opening discussion on decisions
- 7.14 Leaving during a meeting

#### **PART 8—PRESERVING ORDER**

- 8.1 Presiding Member to preserve order
- 8.2 Points of order
- 8.3 Procedures on a point of order
- 8.4 Continued breach of order
- 8.5 Presiding Member may adjourn meeting

#### **PART 9—MOTIONS AND AMENDMENTS**

- 9.1 Recommendations in reports
- 9.2 Adoption of recommendations en bloc
- 9.3 Motions
- 9.4 Motions to be seconded
- 9.5 Unopposed motions
- 9.6 Withdrawing motions
- 9.7 One motion to be debated at a time
- 9.8 Permissible motions on recommendation from Committee
- 9.9 Amendments

#### **PART 10—DEBATE OF MOTIONS**

- 10.1 Order of call in debate
- 10.2 Limit of debate
- 10.3 Member may require motion to be read
- 10.4 Personal explanation
- 10.5 Crossing Council chambers or meeting room
- 10.6 Voting
- 10.7 Motion—when put
- 10.8 Method of taking vote

**PART 11 — REVOCATION MOTIONS**

- 11.1 Requirements to revoke or change decisions
- 11.2 Revocation motion at the same meeting—procedures
- 11.3 Revocation motion after meeting—procedures
- 11.4 Implementation of a decision

**PART 12 — PROCEDURAL MOTIONS**

- 12.1 Permissible procedural motions
- 12.2 No debate on procedural motions
- 12.3 Who may move
- 12.4 Procedural motions—right of reply on primary motion

**PART 13 — EFFECT OF PROCEDURAL MOTIONS**

- 13.1 The motion be deferred—effect of motion
- 13.2 The meeting now adjourn—effect of motion
- 13.3 The debate be adjourned—effect of motion
- 13.4 The motion be now put—effect of motion
- 13.5 The motion lie on the table—effect of motion
- 13.6 Meeting to proceed to the next business—effect of motion
- 13.7 Meeting be closed to members of the public—effect of motion
- 13.8 Ruling by the Presiding Member be overruled—effect of motion
- 13.9 Member be no longer heard—effect of motion
- 13.10 Item be referred back to Committee—effect of motion

**PART 14 — COMMITTEES OF THE COUNCIL**

- 14.1 Establishment, types and membership of Committees
- 14.2 Tenure of Committee membership
- 14.3 Delegation of power to Committees
- 14.4 Appointment of deputy members
- 14.5 Standing Orders apply to Committees
- 14.6 Communications by Committees

**PART 15 — PROCEDURAL MATTERS**

- 15.1 Presiding Member to ensure compliance
- 15.2 Suspension of Standing Orders
- 15.3 Cases not provided for in Standing Orders
- 15.4 Electors' meetings
- 15.5 Electors' meetings—Standing Orders apply
- 15.6 Restriction on voting and speaking at electors' meetings
- 15.7 Penalty for contravention of the Standing Orders
- 15.8 Who can prosecute

**PART 16 — COMMON SEAL**

- 16.1 Custody of the Common Seal
- 16.2 Use of Common Seal

**SCHEDULE 1 — PETITION TO THE SHIRE OF CUE**



**LOCAL GOVERNMENT ACT 1995**

## SHIRE OF CUE

**STANDING ORDERS LOCAL LAW 2012**

Under the powers conferred by the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Cue resolved on 15th May 2012 to make the following local law.

**PART 1 — PRELIMINARY****1.1 Citation**

This local law may be cited as the *Shire of Cue Standing Orders Local Law 2012*.

**1.2 Commencement**

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

**1.3 Purpose and effect**

- (1) The purpose of the local law is to provide the rules for the conduct of meetings of the Council, Committees and electors.
- (2) The effect of the local law is intended to result in—
  - (a) better decision-making at meetings;
  - (b) the orderly and efficient conduct of meetings; and
  - (c) greater community understanding of the business of the Council.

**1.4 Application**

All meetings of the Council, Committees and the electors are to be conducted in accordance with the Act, the Regulations and the local law.

**1.5 Interpretation**

- (1) In the local law, unless the contrary otherwise requires—
  - absolute majority** has the meaning given to it in the Act;
  - Act** means the *Local Government Act 1995*;
  - CEO** means the Chief Executive Officer of the local government;
  - Committee** means a Committee of the Council established under the Act;
  - Council** means the Council of the local government;
  - Councillor** has the same meaning as is given to it in the Act;
  - Department** has the meaning given in the Act;
  - deputation** means a verbal submission at a Council or Committee meeting on an agenda item made by a person who has a direct interest in the agenda item;
  - employee** means an employee of the local government;
  - external body** includes—
    - (a) a Voluntary Organisation of Councils (VROC);
    - (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;
  - 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 other action to give effect to the decision;

**local government** means the Shire of Cue;

**member**—

- (a) in relation to the Council, has the meaning given to it in the Act; and
- (b) in relation to a Committee, means a member of the Committee;

**Minister** means the Minister responsible for administering the Act;

**President** means the President of the local government;

**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 motion or a procedural motion;

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

**revocation motion** means a motion to revoke or change a decision made at a Council or Committee meeting;

**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 at meetings;

**standing orders** means the meeting procedures and/or rules on the conduct and behaviour of persons at a meeting of the Council, Committee or electors, as set out in this local law; and

**urgent business** means business dealt with in accordance with clause 4.12.

(2) Unless otherwise defined, the terms used in this local law have the meaning given to them in the Act and Regulations.

### 1.6 Repeal

The *Shire of Cue Standing Orders Local Law 2001* as published in the *Government Gazette* on 14th May 2002 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.
- (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.

### 2.3 Calling Committee meetings

A meeting of a Committee is to be held—

- (a) in the case of a special meeting, if called for in a written notice to the CEO by the Presiding Member, setting out the date and purpose of the proposed meeting;
- (b) in the case of a special meeting, if called for by at least 2 members of the Committee in a written notice to the CEO, setting out the date and purpose of the proposed meeting; or
- (c) in the case of an ordinary or special meeting, if so decided by the Council or the Committee.

### 2.4 Convening ordinary and special Council meetings

The convening of ordinary and special Council meetings is dealt with in the Act.

### 2.5 Convening ordinary and special 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, place 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.

## 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.

### 3.2 When Deputy President can preside

When the Deputy President can preside is dealt with in the Act.

### 3.3 Who presides if no President or Deputy President

Who presides if the President or Deputy President is absent or unavailable is dealt with in the Act.

**3.4 Election of Presiding Members and Deputy Presiding Members of Committees**

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

**3.5 Functions of Deputy Presiding Members**

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

**3.6 Who acts if no Presiding Member**

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

**3.7 Quorum for meetings**

The quorum for meetings is dealt with in the Act and Regulations.

**3.8 Quorum to be present**

The Council or a Committee is not to transact business at a meeting unless a quorum is present.

**3.9 Procedure if quorum not present**

The procedure if a quorum is not present to begin a meeting is dealt with in the Regulations.

**3.10 Loss of quorum during a meeting**

(1) If at any time during a meeting a quorum is not present, the Presiding Member upon becoming aware of that fact is to suspend the proceedings of the meeting for up to 15 minutes.

(2) If a quorum is not present at the expiration of the period in subclause (1), the Presiding Member may suspend the proceedings of the meeting for a further period of up to 15 minutes or adjourn the meeting to a future time and date.

(3) A record is to be taken of all those who have spoken on the subject under consideration at the time of the adjournment.

**3.11 Debate on motion to be resumed**

(1) Where the debate on any motion is interrupted at a Council or Committee meeting which is adjourned under clause 3.10, that debate is to be resumed at the next meeting at the point where it was so interrupted.

(2) Where the interruption in subclause (1) occurs at an ordinary meeting the resumption is to be at the next ordinary meeting unless a special meeting is called earlier for the purpose.

(3) Where the interruption in subclause (1) is at a special meeting, the resumption is to be at the next special meeting called to consider the same business or at the next ordinary meeting if it occurs before a special meeting can be called.

**3.12 Names to be recorded**

At any meeting—

- (a) at which there is not a quorum of members present; or
- (b) which is adjourned under clause 3.10,

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

**PART 4—BUSINESS OF THE 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 without the approval of the Presiding Member or a decision of the Council or Committee, except matters which the Act or this local law permits to be dealt with without notice.

(2) No business is to be transacted at a special meeting of the Council or 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.

**4.2 Meeting to proceed to business**

A meeting is to proceed to business as soon as possible 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;
- (b) apologies;
- (c) members leave of absence;
- (d) disclosure of members' interests;

- (e) public question time;
- (f) confirmation of minutes;
- (g) deputations;
- (h) petitions;
- (i) announcements by the Presiding Member;
- (j) questions by members of which due has been given;
- (k) reports;
- (l) motions by members of which previous notice has been given;
- (m) motions for consideration at the next meeting;
- (n) new business of an urgent nature;
- (o) matters for which the meeting may be closed; and
- (p) 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) apologies;
- (c) disclosure of members' interests;
- (d) question time for the public;
- (e) confirmation of minutes;
- (f) business arising from the minutes;
- (g) reports;
- (h) general business;
- (i) matters for which the meeting may be closed; and
- (j) 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 agenda of the meeting.

#### **4.4 Leave of absence**

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

#### **4.5 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.

#### **4.6 Petitions**

- (1) Any petition to the Council must be given to the CEO prior to meeting. Refer to Schedule 1—Petition to the Shire of Cue.
- (2) The CEO may refuse to accept a petition to the Council unless it—
  - (a) is addressed to the presiding member or president, as the case requires;
  - (b) states the request on each of its pages;
  - (c) contains a summary of the reason for the request;
  - (d) for each person who has signed it, shows—
    - (i) the person's name and address; and
    - (ii) the date on which the person signed it;
  - (e) states the name and an address of one person to whom notice to the petitioners can be sent; and
  - (f) be respectful and temperate in its language.

#### **4.7 Announcements by the Presiding Member**

- (1) At any meeting of the Council the President may—
  - (a) announce or raise any matter of interest or relevance to the business of the Council, and
  - (b) inform the Council of official duties performed or functions attended.
- (2) Announcements by the Presiding Member are—
  - (a) to be brief and concise;
  - (b) to be completed within 10 minutes; and

#### **4.8 Questions by members of which due notice has been given**

- (1) A member who wishes to ask a question at a meeting of the Council is to give to the CEO written notice of the text of the question at least 8 hours before the meeting of the Council, and the question is to, as far as practicable, be answered in writing at that meeting.
- (2) As far as practicable, the CEO is to ensure that a written answer to a question under subclause (1) is to be given at the meeting.

- (3) If the CEO considers that the question breaches or may breach this local law or any other law—
- (a) the CEO is to refer the question to the President;
  - (b) the President is to exclude the question if he or she concurs with the view of the CEO; and
  - (c) if the question is excluded, the CEO is to give all members, as soon as practicable but not later than the next ordinary meeting, the reasons for the exclusion.
- (4) Notice of a question that is not excluded is to be included, if practicable, in the agenda, or is otherwise to be tabled at the meeting.
- (5) Every question and answer is to be submitted as briefly and concisely as possible, and no discussion is to be allowed unless with the consent of the President.

#### **4.9 Reports**

- (1) The functions of the CEO, including providing advice to the Council and Committees and implementing decisions, are dealt with in the Act.
- (2) The CEO may prepare or cause to be prepared a report on an item that in the CEO's opinion requires consideration by the Council or the Committee, including any report of a late or urgent nature.
- (3) Where a report has been prepared in accordance with subclause (2), the CEO is to deliver the report to members of the Council or the Committee (as the case may be) or, in the case of urgency or other special circumstances, table the report at the meeting.
- (4) The CEO may, with the consent of the Presiding Member, withdraw an item or report listed in the agenda.

#### **4.10 Motions by members of which previous notice has been given**

- (1) Unless the Act, Regulations or the Standing Orders otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the Chief Executive Officer.
- (2) A notice of motion under subclause (1) is to be signed by the member and given to the CEO at least 5 clear working days before the meeting at which the motion is to be moved.
- (3) A notice of motion must relate to a matter for which the Council is responsible unless, in the opinion of the Presiding Member, the matter is one of significant public interest or importance.
- (4) The CEO—
- (a) may with the concurrence of the Presiding Member, exclude from the agenda any notice of motion that they consider to be out of order; or
  - (b) may after consultation with the member who gave notice of the motion, make such amendments to the form but not the substance to bring the notice of motion into due form; and
  - (c) must provide relevant and material facts and circumstances pertaining to the notice of motion on matters such as policy, financial and legal implications.
- (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 notice of motion is not to be out of order because the proposal involved is considered objectionable—
- (7) 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.
- (8) If a notice of motion is given and lapses, a notice of motion in the same terms or to the same effect may be given for consideration at a subsequent meeting of the Council or Committee, but if the motion again lapses, the Council or Committee is not to consider a motion in the same terms or to the same effect at a subsequent meeting until at least 3 months have elapsed from the date of the meeting at which the motion last lapsed.
- (9) For the purposes of clarification, where a notice of motion is moved and seconded at a meeting of the Council or Committee, it is to be treated as a primary motion.

#### **4.11 Representation on external bodies**

- (1) 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.
- (2) When speaking or voting on any item or business at a meeting of an external body, a member appointed to that body is to have regard to the decisions, policies and practices of the local government.

#### **4.12 Urgent business**

- (1) In cases of extreme urgency, matters may, on a motion that is carried by the meeting, be raised without notice and decided by the meeting.
- (2) In subclause (1), *cases of extreme urgency* means matters that have arisen after the distribution of the agenda are considered by the meeting to be of such importance and urgency that—
- (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.
- (3) Before debate begins on a matter under this clause that is not the subject of a written employee report 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.
- (4) 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.

#### **4.13 General business**

- (1) A member may raise any item of general business at a Committee meeting that they consider requires the attention of the Committee within its role as established by the Council.
- (2) If a Committee wishes to take further action after discussing an item raised under subclause (1), it must first ask the CEO to prepare a report on the item and consider that report.

#### **4.14 Closure**

At the conclusion of all business or when otherwise determined by the meeting, the Presiding Member is to declare the meeting closed and the closing time is to be recorded in the minutes of the meeting.

### **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.

#### **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 a meeting or part of a meeting.
- (3) If a resolution under subclause (2) is carried—
  - (a) the Presiding Member is to direct everyone to leave the meeting except—
    - (i) the members;
    - (ii) the CEO; and
    - (iii) any officer specified by the Presiding Member; and
  - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the Committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3) 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) Unless the Council or Committee resolves otherwise, once the meeting is re-opened to members of the public the Presiding Member is to ensure that any resolution of the Council or Committee made while the meeting was closed is to be read out including the details of any voting recorded.

#### **5.3 Question time for the public**

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

#### **5.4 Question time for the public at certain meetings**

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

#### **5.5 Minimum question time for the public**

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

#### **5.6 Procedures for question time for the public**

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

#### **5.7 Other procedures for question time for the public**

- (1) Questions asked by the public are to relate to the business of the Council and are not to be in the form of a statement or a personal opinion.
- (2) Unless determined otherwise under the Regulations, the procedure for the asking of and responding to questions raised by members of the public at a meeting shall be as follows—
  - (a) a member of the public who raises a question during question time is to state their name and address;
  - (b) questions may be submitted in writing in which case they will be read out by the CEO but questions may be asked orally;
  - (c) questions are to be answered by the member or employee nominated by the Presiding Member;

- (d) questions may be taken on notice, at the determination of the Presiding Member, and the Presiding Member may determine that any complex question requiring research be answered only in writing;
  - (e) no discussion of a question or answer is to take place; and
  - (f) when a question is taken on notice under subclause (d) a response is to be given to the member of the public in writing, and a copy is to be included in the agenda of the next meeting of the Council or Committee as the case requires.
- (3) The Presiding Member may reject any question that may be deemed offensive towards, or reflect adversely upon the character, of any member of the Council or employee of the local government.
- (4) Where a response to a question is given at a meeting, a summary of the question and the response is to be included in the minutes of the meeting.
- (5) 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, or which is open to the public.

### **5.8 Distinguished visitors**

If a distinguished visitor is present at a meeting of the Council or a Committee, the Presiding Member may—

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

### **5.9 Deputations**

- (1) Any person or group wishing to be received as a deputation by the Council or Committee is to—
- (a) apply in writing, at least 5 clear working days before the meeting, to the CEO for approval; 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) a copy or a summary of the application; and
  - (b) the CEO's recommendation, with reasons, whether or not the application should be approved.
- (3) The Presiding Member may—
- (a) grant or refuse the application, with or without conditions; or
  - (b) refer it to the Council or Committee (as the case may be) for determination.
- (4) If the Presiding Member refuses application, he or she is to report to the Council or Committee (as the case may be), at its next meeting, the details of the application and the reasons for its refusal.
- (5) Unless the Council or Committee resolves otherwise, a deputation invited to attend a Council or Committee meeting—
- (a) is not to exceed 3 persons;
  - (b) may address the Council or Committee for up to 5 minutes each (or for up to 10 minutes if only one person speaks), unless the time is extended by the Council or Committee; and
  - (c) may also respond to questions from Members.
- (6) For the purpose of determining who may address the Council or Committee on an issue, all those people either in favour of or opposed to an item for consideration are deemed to comprise a single deputation.
- (7) A matter which is the subject of a deputation to a Committee is not to be decided by that Committee until the deputation has completed its presentation.

### **5.10 Attending Committee meetings as an observer**

- (1) A Councillor may attend any meeting of a Committee as an observer, even if the Councillor is not a member of that Committee.
- (2) A deputy to a member of a Committee appointed under clause 14.4 may attend a meeting of that Committee as an observer, even if the deputy is not acting in the capacity of the member.
- (3) The Councillor in the case of subclause (1), or deputy to a member attending a Committee meeting as an observer in the case of subclause (2)—
- (a) may, with the consent of the Presiding Member, speak, but cannot vote, on any motion before the Committee; and
  - (b) must sit in the area set aside for observers separated from the Committee members.

### **5.11 Public inspection of agenda materials**

Public inspection of agenda materials is dealt with in the Regulations.

### **5.12 Public access to unconfirmed minutes of meetings**

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

### 5.13 Confidentiality of information withheld

- (1) Information withheld by the CEO from members of the public under the Regulations, is to be—
- identified in the agenda of a Council or Committee meeting under the item “Matters for which the meeting may be closed”;
  - marked “confidential” in the agenda; and
  - kept confidential by members and employees until the Council or Committee resolves otherwise.
- (2) A member or an employee who has—
- confidential information under subclause (1); or
  - 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,

is not to 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—
- at a closed meeting;
  - to the extent specified by the Council and subject to such other conditions as the Council determines;
  - that is already in the public domain;
  - to an officer of the Department;
  - to the Minister;
  - to a legal practitioner for the purpose of obtaining legal advice; or
  - if the disclosure is required or permitted by law.

### 5.14 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 Council Chamber or meeting room as may be set aside for their accommodation, but must withdraw during any period when the meeting is closed to the public.

### 5.15 Recording of meeting

- (1) A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the Council or Committee unless the Presiding Member or CEO has given permission to do so.
- (2) If the Presiding Member or CEO gives permission under subclause (1), he or she 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.
- (3) Penalty of \$1,000.00

### 5.16 Prevention of disturbance

- (1) A reference in this clause to a “*person*” is to a person other than a member.
- (2) A person addressing the Council 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 from the Presiding Member.
- (3) A person must not interrupt or interfere with the proceedings of any meeting of the Council or a Committee, whether by expressing approval or dissent, by conversing or by any other means.
- (4) The Presiding Member may warn a person who fails to comply with this clause.
- (5) If—
- after being warned, the person again acts contrary to this clause, or to the direction; or
  - 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.
- (6) 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.
- (7) A person who disobeys an order given under subclause (5)(b) or (6), commits an offence. Penalty \$1,000.

## 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.

### 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.

### 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.

**6.4 When disclosing members can participate**

The procedures for allowing participation in meetings of members disclosing an interest in clause 6.1 are dealt with in the Act.

**6.5 Invitation to return to provide information**

(1) Where a member has disclosed an interest in clause 6.1, and has departed from the Council Chamber or meeting room, the meeting may invite the member to return to provide information in respect of the matter or in respect of the member's interest in the matter.

(2) A member invited to return under subclause (1) must withdraw after providing the information.

**6.6 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.

**6.7 Disclosure by members who are observers at Committee meetings**

The obligation to disclose an interest in clause 6.1 is to apply to all members present at Committee meetings including a member attending a Committee meeting in the capacity of an observer.

**6.8 Disclosure of impartiality interests**

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

**6.9 Other persons to disclose impartiality interests**

(1) In this clause, a reference to—

(a) **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; and

(b) **person** means an employee and a member of a Committee that is not either the President or a Councillor.

(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.

**6.10 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.

**6.11 Approval by Minister to be recorded**

If the Minister approves of the participation in a meeting of a disclosing member, the conditions of the approval are to be recorded in the minutes of the meeting and the register of financial interests.

**PART 7—CONDUCT OF MEMBERS****7.1 Official titles to be used**

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

**7.2 Members to occupy own seats**

(1) At meetings of the Council each member is to occupy the place assigned to that member within the Council Chamber.

(2) At the first meeting held after each ordinary elections day, the CEO is to allot by ballot seating of members.

### **7.3 Members not to interrupt**

A member must not interrupt another member while speaking unless—

- (a) to raise a point of order under clause 8.3;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 10.4; or
- (d) to move a procedural motion that the member be no longer heard under clause 12.1(i).

### **7.4 No adverse reflection on decision**

(1) At a meeting a member must not make an offensive statement about the council or any committee of the council or any person.

Penalty \$1,000.

(2) If at a meeting a member contravenes subclause (2), the council or the committee, as the case may be, or the presiding member may order the member to withdraw and apologise for the statement.

(3) If a member by making a statement contravenes subclause (1) and either is not given an order under subclause (2) or is and does not obey the order, another member may move immediately, without notice, that the member's statement be recorded in the minutes of the meeting.

(4) If a motion moved under subclause (3) is carried, the Presiding Member must ensure the minutes record the actual words of the statement concerned as verified by the meeting.

### **7.5 Offensive language**

(1) A member must not use offensive or objectionable expressions in reference to any member, employee, or other person.

(2) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the Presiding Member is to cause the words used to be taken down and read to the meeting for verification and then to be recorded in the minutes.

### **7.6 Direction to withdraw**

A member who, in the opinion of the Presiding Member and in the absence of a resolution under clause 7.4(2)—

- (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.

### **7.7 Members who wish to speak**

A member who wishes to speak—

- (a) is to indicate his or her intention to speak by raising his or her hand; and
- (b) when invited by the Presiding Member to speak, must address the meeting through the Presiding Member; and
- (c) must stand when speaking unless unable to do so, due to illness or disability.

### **7.8 Priority of speaking**

If 2 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.

### **7.9 The Presiding Member may take part in debates**

The Presiding Member may take part in a discussion of any matter before the Council or Committee as the case may be.

### **7.10 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.

### **7.11 Limitation on members speaking**

(1) Only the mover of a motion or an amendment may speak twice on the same motion or the same amendment, unless permitted by the meeting (on a majority vote).

(2) The mover of a motion or an amendment—

- (a) is to speak to that motion or amendment first, after it has been seconded; and
- (b) has the right of reply and in exercising that right must confine the reply to previous speakers' comments and not introduce any new matters.

(3) A member must not speak on any motion or an amendment after the mover has replied and the motion or amendment is to be immediately put to the vote by the Presiding Member.

(4) A member may speak on a motion or an amendment, or reply, for a period of only 5 minutes.

(5) A motion to extend the speaking time of a member cannot be debated.

#### **7.12 Questions during debate**

(1) A member may ask a question at any time during the debate on a motion or an amendment before the mover of the motion or amendment has replied.

(2) A member who asks one or more questions will not be taken to have spoken on the matter.

#### **7.13 Re-opening discussion on decisions**

A member must not re-open discussion on any decision of the Council or Committee, except for the purpose of moving a revocation motion under clause 11.2.

#### **7.14 Leaving during a meeting**

(1) A member must not leave a meeting without first having notified the Presiding Member.

### **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 or other person 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**

Without limitation, the following acts are to be taken as being out of order—

- (a) discussion of a matter not before the meeting;
- (b) the use of offensive or objectionable language; 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.

#### **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.

(4) A member who is expressing a difference of opinion or contradicting a speaker is not to be taken as raising a point of order.

#### **8.4 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 of the item, other than by voting, and the member must comply with that direction.

#### **8.5 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 matter before the adjournment are to be recorded.

### **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.

- (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 Adoption of recommendations en bloc**

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

- (a) which require adoption by an absolute or special majority vote;
- (b) in which an interest has been disclosed;
- (c) that has been subject of a petition or deputation;
- (d) which any member has indicated the wish to debate; and
- (e) in which any member has indicated the wish to ask a question or to raise a point of clarification,

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

### **9.3 Motions**

- (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 (including a person who, under a contract for services with the local government, provides advice or a report on the matter); or
    - (ii) the member 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.
- (3) 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.

### **9.4 Motions to be seconded**

- (1) A motion, or an amendment to a 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 Committee meeting is not open to debate unless the motion has the support required under the Regulations.
- (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) Despite subclause (1), if at any time the presiding member believes there has been sufficient debate on a motion, he or she may invite the mover of the motion to reply, as long as at least one member has spoken against the motion.

### **9.5 Unopposed motions**

- (1) Immediately after a motion has been moved and seconded, the Presiding Member may ask the meeting if any member opposes it.
- (2) If no member opposes the motion, the Presiding Member may declare it carried without debate and without taking a vote.
- (3) A motion carried under subclause (2) is to be recorded in the minutes as a unanimous decision of the Council or Committee.
- (4) If a member opposes a motion, the motion is to be dealt with under this Part.

### **9.6 Withdrawing motions**

- (1) A motion or amendment may be withdrawn by the mover, with the consent of the seconder, and no member is to speak on it after it has been withdrawn.
- (2) If an amendment has been proposed to a primary motion, the primary motion cannot be withdrawn, except by consent of the majority of members, until the amendment proposed has been withdrawn or lost.

### **9.7 One motion to be debated at a time**

The Council or a 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 Permissible motions on recommendation from Committee**

A recommendation made by a Committee may be—

- (a) adopted by the Council without amendment;

- (b) rejected by the Council and replaced by an alternative decision;
- (c) subject to clause 9.9(2), amended, and adopted as amended by the Council; or
- (d) referred back to the Committee for further consideration.

### **9.9 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; or
  - (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 a primary motion.
- (6) An amendment must be read by the mover before being seconded.

## **PART 10—DEBATE OF MOTIONS**

### **10.1 Order of call in debate**

The Presiding Member is to call speakers to a motion or amendment 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 against and for the motion, alternating in view, if any; and
- (f) the mover takes right of reply which closes debate.

### **10.2 Limit of debate**

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

### **10.3 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.

### **10.4 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.

### **10.5 Crossing Council chambers or meeting room**

(1) When the Presiding Member is putting any motion to the vote, a member must not leave or cross the Council Chamber or meeting room.

(2) A member must not, while any other member is speaking, pass between the speaker and the chair.

### **10.6 Voting**

Voting at meetings is dealt with in the Act and Regulations.

### **10.7 Motion—when put**

Immediately after the debate on any question is concluded and the right of reply has been exercised, the Presiding Member—

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

### **10.8 Method of taking vote**

(1) The Presiding Member, in taking the vote on any motion, is to—

- (a) put the motion, first in the affirmative and then in the negative;
- (b) determine whether the affirmative or the negative has the majority of votes; and
- (c) declare the result of the vote.

- (2) The motion put under subclause (1) may be put as often as is necessary to enable the Presiding Member to determine whether the affirmative or the negative has the majority of votes.
- (3) The result of voting is to be determined on the count of raised hands but it may be determined on the voices unless a member calls for a show of hands.
- (4) The minutes are to show the names of all members who voted for and against each resolution of the council.

## **PART 11 — REVOCATION MOTIONS**

### **11.1 Requirements to revoke or change decisions**

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

### **11.2 Revocation motion at the same meeting — procedures**

- (1) A member who moves 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 4.12.
- (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 11.1; and
  - (d) if there is sufficient support, deal with the revocation motion.

### **11.3 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 4.12.
- (2) Any notice of revocation motion given to the CEO must be dealt with in accordance with 4.12.
- (3) If, when a motion to revoke or change a decision of the council or a committee, other than a procedural decision, is moved—
- (a) in the case of a decision that relates to the issue of an approval, authorisation, certificate, licence or permit to a person, the local government has acted on the decision by notifying the person; or
  - (b) if any action has been taken on the decision, the council or a committee cannot vote on the motion unless it has received and considered a report prepared by or at the direction of the CEO about the legal and financial consequences of passing the motion.
- (4) A decision made by the council or a committee at a meeting cannot be acted on by any person—
- (a) until after midday on the first working day after the day on which the decision was made, unless the council or committee direct the CEO under subclause (2); or
  - (b) if no action on the decision has been taken and notice of a motion to revoke the decision is given under regulation 10 of the Regulations; or
  - (c) if no action on the decision has been taken and notice of a motion to change the decision is given under regulation 10 of the Regulations and the motion, if carried, would materially change the decision.
- (5) The council or a committee may, on the day on which it makes a decision at a meeting, direct the CEO to act on the decision immediately after the CEO is notified of it and the direction.

### **11.4 Implementation of a decision**

No steps are to be taken to implement or give effect to a decision if—

- (a) there is a valid notice of revocation motion that has the support of members required by the Regulations; and
- (a) the notice of revocation motion was received before any action was taken to implement the decision.

## **PART 12 — PROCEDURAL MOTIONS**

### **12.1 Permissible procedural motions**

In addition to the right to move an amendment to a primary motion, a member may move any of the following procedural motions—

- (a) that the motion be deferred;
- (b) that the meeting now adjourn;
- (c) that the debate be adjourned;
- (d) that the motion be now put;
- (e) that the motion lie on the table;
- (f) that the meeting proceed to the next item of business;
- (g) that the meeting be closed to members of the public;
- (h) that the ruling of the Presiding Member be overruled;
- (i) that the member be no longer heard; or
- (j) that the item be referred back to the (appropriate) Committee.

### **12.2 No debate on procedural motions**

(1) The mover of a motion stated in each of paragraphs (a), (b), (c), (e), (f), (g), (i) and (j) of clause 12.1 may speak to the motion for not more than 5 minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

(2) The mover of a motion stated in each of paragraphs (d) and (h) of clause 12.1 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.

### **12.3 Who may move**

With the exception of subclause 12.1(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.

### **12.4 Procedural motions —right of reply on primary motion**

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

## **PART 13—EFFECT OF PROCEDURAL MOTIONS**

### **13.1 The motion be deferred —effect of motion**

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

(2) A motion “that the motion be deferred” must not be moved in respect of the election of a Presiding Member or the Deputy President.

(3) A member must not, at the same meeting, move or second more than one motion “that the motion be deferred” in respect of the same item.

### **13.2 The 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 7.11 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; or
- (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.

### **13.3 The 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 7.11 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 or the Deputy President.

(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.

#### **13.4 The motion be now put — effect of motion**

(1) If a motion “that the motion be now put”, is carried during discussion of a primary motion, 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 an 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.

#### **13.5 The motion lie on the table — effect of motion**

(1) If a motion “that the motion lie on the table”, is carried, debate on the primary motion and any amendment must cease and the meeting is to proceed to the next item of business.

(2) Debate on the motion laid on the table is to be adjourned until such time (if any) as the meeting resolves to take the motion from the table.

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

(a) the names of members who have spoken on the matter are to be recorded in the minutes; and

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

(4) A motion “that the motion lie on the table” must not be moved in respect of the election of a Presiding Member or the Deputy President.

(5) A member moving the taking of the motion from the table is entitled to speak first on the resumption of the debate.

#### **13.6 Meeting to proceed to the next business — effect of motion**

(1) The motion “that the meeting proceed to the next item of business”, if carried has the effect that —

(a) the debate on the primary motion or amendment ceases immediately;

(b) no decision is made on the primary motion;

(c) the meeting moves to the next item of business; and

(d) there is no requirement for the matter to be raised again for consideration.

(2) A motion that “the meeting proceed to the next item of business” must not be moved in respect of the election of a Presiding Member or the Deputy President.

#### **13.7 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.

#### **13.8 Ruling by the Presiding Member be overruled — effect of motion**

If a motion “that the ruling of the Presiding Member be overruled” is carried, that ruling (by the presiding Member) is to have no effect and the meeting is to proceed accordingly.

#### **13.9 Member be no longer heard — effect of motion**

If a motion “that the member be no longer heard” is carried, the speaker against whom the motion has been moved must not 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.

#### **13.10 Item be referred back to Committee — effect of motion**

(1) If a motion “that the item be referred back to Committee” 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 for further consideration.

(2) If the motion in subclause (1) is lost, debate on the primary motion or amendment is to continue.

### **PART 14 — COMMITTEES OF THE COUNCIL**

#### **14.1 Establishment, types and membership of Committees**

The establishment, types and membership of Committees is dealt with in the Act.

#### **14.2 Tenure of Committee membership**

The tenure of Committee membership is dealt with in the Act.

#### **14.3 Delegation of power to Committees**

Delegation of powers and duties to Committees is dealt with in the Act.

#### **14.4 Appointment of deputy members**

The appointment of a deputy to a member of a Committee is dealt with in the Act.

#### **14.5 Standing Orders apply to Committees**

Unless otherwise specifically provided, the Standing Orders apply generally to the proceedings of Committees, except for —

(a) clause 7.2; and

(b) clause 7.11(1).

**14.6 Communications by Committees**

A Committee must not communicate with any person or authority except through the Chief Executive Officer.

**PART 15 — PROCEDURAL MATTERS****15.1 Presiding Member to ensure compliance**

The Presiding Member of a meeting is to ensure compliance with the Standing Orders.

**15.2 Suspension of Standing Orders**

(1) A member may, at any time, move that the operation of one or more of the Standing Orders or clauses of this local law be suspended.

(2) A member moving a motion under subclause (1) is to identify the clause or clauses of this local law containing the Standing Orders 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 meeting, unless the meeting earlier resolves otherwise.

**15.3 Cases not provided for in Standing Orders**

(1) In situations where—

- (a) one or more Standing Orders have 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 12.1(h).

**15.4 Electors' meetings**

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

**15.5 Electors' meetings — Standing Orders apply**

The Standing Orders apply, so far as is practicable, to any meeting of electors, but where there is any inconsistency between the provisions of this local law and the provisions of the Act, the latter prevail.

**15.6 Restriction on voting and speaking at electors' meetings**

The restriction on voting and speaking at electors' meetings is dealt with in the Regulations.

**15.7 Penalty for contravention of the Standing Orders**

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

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

**15.8 Who can prosecute**

Who can prosecute is dealt with in the Act.

**PART 16 — COMMON SEAL****16.1 Custody of the Common Seal**

The CEO is to have charge of the Common Seal of the local government, and is responsible for the safe custody and proper use of it.

**16.2 Use of Common Seal**

The use of the Common Seal is dealt with in the Act.

---

**Schedule 1****PETITION TO THE SHIRE OF CUE**

To the President and Councillors of the Shire of Cue

We, the undersigned, do respectfully request that the Council—

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

Correspondence in respect of this petition should be addressed to—

(Here set out the name and address of the person)

The names and addresses of your petitioners are as follows

---

DATE	FULL NAME	ADDRESS AGREE/DISAGREE/NO OPINION	SIGNATURE
------	-----------	--------------------------------------	-----------

Note: Petitioners may contact the CEO of the Shire of Cue if they wish to withdraw from this petition or change their comment.

\_\_\_\_\_

Dated: Tuesday, 15th May 2012.

The Common Seal of the Shire of Cue was affixed by authority of a resolution of the Council in the presence of—

Cr ROGER LE MAITRE, Shire President.  
Mr PETER A. MONEY, Chief Executive Officer.

\_\_\_\_\_