

**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF MENZIES**

**MEETING PROCEDURES LOCAL LAW 2021**

**CONTENTS**

**PART 1—PRELIMINARY**

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application
- 1.4 Interpretation

**PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES**

- 2.1 Establishment of committees
- 2.2 Types of committees
- 2.3 Delegation of some powers and duties to certain committees
- 2.4 Limits on delegation of powers and duties to certain committees
- 2.5 Appointment of committee members
- 2.6 Tenure of committee membership
- 2.7 Resignation of committee members
- 2.8 Register of delegations to committees
- 2.9 Committees to report

**PART 3—CALLING AND CONVENING MEETINGS**

- 3.1 Ordinary and special Council meetings
- 3.2 Calling Council meetings
- 3.3 Convening Council meetings
- 3.4 Calling committee meetings
- 3.5 Public notice of meetings

**PART 4—PRESIDING MEMBER AND QUORUM**

- 4.1 Who presides
- 4.2 When the Deputy President can act
- 4.3 Who acts if no President
- 4.4 Election of presiding members of committees
- 4.5 Election of deputy presiding members of committees
- 4.6 Functions of deputy presiding members
- 4.7 Who acts if no presiding member
- 4.8 Quorum for meetings
- 4.9 Reduction of quorum for Council meetings
- 4.10 Reduction of quorum for committee meetings
- 4.11 Procedure where no quorum to begin a meeting
- 4.12 Procedure where quorum not present during a meeting
- 4.13 Names to be recorded

**PART 5—BUSINESS OF A MEETING**

- 5.1 Business to be specified
- 5.2 Order of business
- 5.3 Motions of which previous notice has been given
- 5.4 New business of an urgent nature
- 5.5 Adoption by exception resolution

**PART 6—PUBLIC PARTICIPATION**

- 6.1 Meetings generally open to the public
- 6.2 Meetings not open to the public

- 6.3 Question time for the public
- 6.4 Question time for the public at certain meetings
- 6.5 Minimum question time for the public
- 6.6 Procedures for question time for the public
- 6.7 Other procedures for question time for the public
- 6.8 Distinguished visitors
- 6.9 Deputations
- 6.10 Petitions
- 6.11 Presentations
- 6.12 Participation at committee meetings
- 6.13 Public inspection of agenda materials
- 6.14 Confidentiality of information withheld
- 6.15 Recording of proceedings
- 6.16 Prevention of disturbance

#### PART 7—QUESTIONS BY MEMBERS

- 7.1 Questions by members

#### PART 8—CONDUCT OF MEMBERS

- 8.1 Members to be in their proper places
- 8.2 Official titles to be used
- 8.3 Entering or leaving a meeting
- 8.4 Members to indicate their intention to speak
- 8.5 Priority of speaking
- 8.6 Presiding member may take part in debates
- 8.7 Relevance
- 8.8 Speaking twice
- 8.9 Duration of speeches
- 8.10 No speaking after conclusion of debate
- 8.11 No interruption
- 8.12 Personal explanations
- 8.13 No reopening of discussion
- 8.14 Adverse reflection
- 8.15 Withdrawal of offensive language

#### PART 9—PRESERVING ORDER

- 9.1 Presiding member to preserve order
- 9.2 Point of order
- 9.3 Procedures on a point of order
- 9.4 Calling attention to breach
- 9.5 Ruling by the presiding member
- 9.6 Continued breach of order
- 9.7 Right of presiding member to adjourn

#### PART 10—DEBATE OF SUBSTANTIVE MOTIONS

- 10.1 Motions to be stated and in writing
- 10.2 Motions to be supported
- 10.3 Unopposed business
- 10.4 Only one substantive motion at a time
- 10.5 Complex motions
- 10.6 Order of call in debate
- 10.7 Limit of debate
- 10.8 Member may require motion to be read
- 10.9 Consent of seconder required for alteration
- 10.10 Order of amendments
- 10.11 Form of an amendment
- 10.12 Amendment must not negate original motion
- 10.13 Relevance of amendments

- 10.14 Mover of motion may speak on amendment
- 10.15 Effect of an amendment
- 10.16 Withdrawal of motion or amendment
- 10.17 Right of reply

#### PART 11—PROCEDURAL MOTIONS

- 11.1 Permissible procedural motions
- 11.2 No debate
- 11.3 Procedural motion—right of reply on substantive motion
- 11.4 Meeting to proceed to the next business
- 11.5 Debate to be adjourned
- 11.6 Meeting now adjourn
- 11.7 Question to be put
- 11.8 Member to be no longer heard
- 11.9 Ruling of the presiding member to be disagreed with

#### PART 12—DISCLOSURE OF INTERESTS

- 12.1 Disclosure of interests

#### PART 13—VOTING

- 13.1 Motion—when put
- 13.2 Voting
- 13.3 Majorities required for decisions
- 13.4 Method of taking vote
- 13.5 Recording of votes

#### PART 14—MINUTES OF MEETINGS

- 14.1 Keeping of minutes
- 14.2 Content of minutes
- 14.3 Public inspection of unconfirmed minutes
- 14.4 Confirmation of minutes

#### PART 15—ADJOURNMENT OF MEETING

- 15.1 Meeting may be adjourned
- 15.2 Effect of adjournment

#### PART 16—REVOKING OR CHANGING DECISIONS

- 16.1 Requirements to revoke or change decisions
- 16.2 Limitations on powers to revoke or change decisions
- 16.3 Implementing a decision

#### PART 17—SUSPENSION OF LOCAL LAW

- 17.1 Suspension of local law
- 17.2 Where local law does not apply

#### PART 18—MEETINGS OF ELECTORS

- 18.1 Electors' general meetings
- 18.2 Matters for discussion at electors' general meetings
- 18.3 Electors' special meetings
- 18.4 Requests for electors' special meetings
- 18.5 Convening electors' meetings
- 18.6 Who presides at electors' meetings
- 18.7 Procedure for electors' meetings
- 18.8 Participation of non-electors
- 18.9 Voting at electors' meetings
- 18.10 Minutes of electors' meetings
- 18.11 Decisions made at electors' meetings

## PART 19—ENFORCEMENT

- 19.1 Penalty for breach
- 19.2 Who can prosecute

## LOCAL GOVERNMENT ACT 1995

### SHIRE OF MENZIES

## MEETING PROCEDURES LOCAL LAW 2021

Under the powers conferred by the *Local Government Act 1995* and under all other relevant powers, the Council of the Shire of Menzies resolved on 25 November 2021 to adopt the following local law.

### PART 1—PRELIMINARY

#### 1.1 Citation

This local law may be cited as the *Shire of Menzies Meeting Procedures Local Law 2021*.

#### 1.2 Commencement

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

#### 1.3 Application

This local law provides rules and guidelines which apply to the conduct of meetings of the Council, its committees and to meetings of electors.

#### 1.4 Interpretation

(1) In this local law unless the context otherwise requires—

**absolute majority** has the meaning given to it in section 1.4 of 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 section 5.8 of the Act;

**committee meeting** means a meeting of a committee;

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

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

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

**member** has the meaning given to it in section 1.4 of the Act, and where the context permits, a committee member;

**Minister** means the Minister for Local Government;

**officer** means an officer of the local government;

**President** means the President of the local government or other presiding member at a Council meeting under section 5.6 of the Act;

**presiding member** means—

(a) in respect of the Council, the person presiding under section 5.6 of the Act; and

(b) in respect of a committee, the person presiding under sections 5.12, 5.13, or 5.14 of the Act;

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

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

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

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

### PART 2—ESTABLISHMENT AND MEMBERSHIP OF COMMITTEES

#### 2.1 Establishment of committees

(1) The establishment of committees is dealt with in section 5.8 of the Act.

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

(a) the terms of reference of the committee;

(b) the number of Council members, officers and other persons to be appointed to the committee;

(c) the names or titles of the Council members and officers to be appointed to the committee;

(d) the names of other persons to be appointed to the committee or an explanation of the procedure to be followed to determine the appointments; and

- (e) details of the delegation of any powers or duties to the committee under section 5.16 of the Act.
- (3) This local law is to apply to the conduct of committee meetings.
- (4) Unless earlier determined by Council, a Committee established by Council ceases to exist immediately prior to the first ordinary meeting of the Council held after the next following ordinary local government election.
- (5) Council may re-establish the Committee by resolution until the first meeting held after the next following ordinary local government election.

## **2.2 Types of committees**

The types of committees are dealt with in section 5.9 of the Act.

## **2.3 Delegation of some powers and duties to certain committees**

The delegation of some powers and duties to certain committees is dealt with in section 5.16 of the Act.

## **2.4 Limits on delegation of powers and duties to certain committees**

The limits on the delegation of powers and duties to certain committees are dealt with in section 5.17 of the Act.

## **2.5 Appointment of committee members**

The appointment of committee members is dealt with in sections 5.10 and 5.11A of the Act.

## **2.6 Tenure of committee membership**

Tenure of committee membership is dealt with in section 5.11 of the Act.

## **2.7 Resignation of committee members**

The resignation of committee members is dealt with in regulation 4 of the Regulations.

## **2.8 Register of delegations to committees**

The register of delegations to committees is dealt with in section 5.18 of the Act.

## **2.9 Committees to report**

A committee—

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

# **PART 3—CALLING AND CONVENING MEETINGS**

## **3.1 Ordinary and special Council meetings**

- (1) Ordinary and special Council meetings are dealt with in the Act.
- (2) An ordinary meeting of the Council, held as determined by the Council, is for the purpose of considering and dealing with the ordinary business of the Council.
- (3) A special meeting of the Council is held for the purpose of considering and dealing with Council business that is urgent, complex in nature, for a particular purpose or confidential.

## **3.2 Calling Council meetings**

The calling of Council meetings is dealt with in section 5.4 of the Act.

## **3.3 Convening Council meetings**

- (1) The convening of a Council meeting is dealt with in section 5.5 of the Act.
- (2) The CEO is to give at least 72 hours notice, for the purposes of section 5.5 of the Act, in convening a special meeting of the Council, subject to subclause (3).
- (3) Where, in the opinion of the President or at least one-third of the members, there is a need to meet urgently, the CEO may give a lesser period of notice of a special Council meeting.

## **3.4 Calling committee meetings**

The CEO is to call a meeting of any committee when requested by the President, the presiding member of a committee or any two members of that committee.

## **3.5 Public notice of meetings**

Public notice of meetings is dealt with in regulation 12 of the Regulations.

# **PART 4—PRESIDING MEMBER AND QUORUM**

## **4.1 Who presides**

Who presides at a Council meeting is dealt with in section 5.6 of the Act.

## **4.2 When the Deputy President can act**

When the Deputy President can act is dealt with in section 5.34 of the Act.

## **4.3 Who acts if no President**

Who acts if there is no President is dealt with in section 5.35 of the Act.

#### **4.4 Election of presiding members of committees**

The election of presiding members of committees is dealt with in section 5.12(1) of the Act.

#### **4.5 Election of deputy presiding members of committees**

The election of deputy presiding members of committees is dealt with in section 5.12(2) the Act.

#### **4.6 Functions of deputy presiding members**

The functions of deputy presiding members are dealt with in section 5.13 of the Act.

#### **4.7 Who acts if no presiding member**

Who acts if no presiding member is dealt with in section 5.14 of the Act.

#### **4.8 Quorum for meetings**

The quorum for meetings is dealt with in section 5.19 of the Act.

#### **4.9 Reduction of quorum for Council meetings**

The power of the Minister to reduce the number for a quorum and certain majorities is dealt with in section 5.7 of the Act.

#### **4.10 Reduction of quorum for committee meetings**

The reduction of a quorum for committee meetings is dealt with in section 5.15 the Act.

#### **4.11 Procedure where no quorum to begin a meeting**

The procedure where there is no quorum to begin a meeting is dealt with in regulation 8 of the Regulations.

#### **4.12 Procedure where quorum not present during a meeting**

If at any time during a meeting a quorum is not present, the presiding member is—

- (a) immediately to suspend the proceedings of the meeting for a period of up to 30 minutes; and
- (b) if a quorum is not present at the expiry of that period, the presiding member is to adjourn the meeting to some future time or date.

#### **4.13 Names to be recorded**

The names of the members then present are to be recorded in the minutes at any meeting—

- (a) at which there is not a quorum present; or
- (b) which is adjourned for want of a quorum.

### **PART 5—BUSINESS OF A MEETING**

#### **5.1 Business to be specified**

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

#### **5.2 Order of business**

- (1) The order of business of an ordinary meeting of the Council shall be determined by the local government from time to time.
- (2) Unless otherwise decided by the Council, the order of business at any special meeting of the Council is to be the order in which that business stands in the agenda of the meeting.
- (3) In determining the order of business for any meeting of the Council, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.

#### **5.3 Motions of which previous notice has been given**

- (1) Unless the Act, Regulations or this local law otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO and which has been included on the agenda.
- (2) A notice of motion under subclause (1) is to be given at least seven working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good governance of the district.
- (4) The CEO—

- (a) with the concurrence of the President, may exclude from the notice paper any notice of motion deemed to be, or likely to involve, a breach of any of this local law or any other written law;
  - (b) will inform members on each occasion that a notice has been excluded and the reasons for that exclusion;
  - (c) after consultation with the member where this is practicable, may make such amendments to the form but not the substance as will bring the notice of motion into due form; and
  - (d) may provide to the Council relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) A motion of which notice has been given is to lapse unless—
- (a) the member who gave notice of it, or some other member authorised by the originating member in writing, moves the motion when called on; or
  - (b) the Council on a motion agrees to defer consideration of the motion to a later stage or date.
- (6) If a notice of motion is given and lapses under subclause (5), notice of a motion in the same terms or to the same effect is not to be given again for at least three months from the date of such lapse.

#### **5.4 New business of an urgent nature**

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

#### **5.5 Adoption by exception resolution**

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

## **PART 6—PUBLIC PARTICIPATION**

### **6.1 Meetings generally open to the public**

Meetings being generally open to the public is dealt with in section 5.23(1) of the Act.

### **6.2 Meetings not open to the public**

- (1) The CEO may, at any time, recommend that a meeting or part of a meeting be closed to members of the public.
- (2) The Council or a committee, in one or more of the circumstances dealt with in section 5.23(2) of 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; unless a relevant interest is declared; and
    - (ii) any officer specified by the presiding member; and
  - (b) the meeting is to be closed to the public until, at the conclusion of the matter justifying the closure of the meeting to the public, the Council or the committee, by resolution, decides otherwise.
- (4) A person who fails to comply with a direction under subclause (3)(a) may, by order of the presiding member, be removed from the meeting.
- (5) While the resolution under subclause (2) remains in force, the operation of clause 8.8 is to be suspended until the Council or the committee, by resolution, decides otherwise.
- (6) A resolution under this clause may be made without notice.
- (7) Once the meeting is reopened to members of the public, the presiding member is to ensure that any resolution of the Council made while the meeting was closed is to be read out including a vote of a member requested to be included in the minutes.

### **6.3 Question time for the public**

Question time for the public is dealt with in section 5.24 of the Act.

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

Question time for the public at certain meetings is dealt with in regulation 5 of the Regulations.

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

Minimum question time for the public is dealt with in regulation 6 of the Regulations.

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

Procedures for question time for the public are dealt with in regulation 7 of the Regulations.

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

- (1) A member of the public who raises a question during question time, is to state his or her name and address.
- (2) A question may be taken on notice by the Council for later response.
- (3) When a question is taken on notice the CEO is to ensure that—
  - (a) a response is given to the member of the public in writing; and
  - (b) a summary of the response is included in the agenda of the next meeting of the Council.
- (4) Where a question relating to a matter in which a relevant person has an interest is directed to the relevant person, the relevant person is to—
  - (a) declare that he or she has an interest in the matter; and
  - (b) allow another person to respond to the question.
- (5) A member of the public shall have two minutes to submit a question or questions, unless the presiding member agrees to extend the time permitted.
- (6) Each member of the public with a question is entitled to ask up to two questions before other members of the public will be invited to ask their questions.
- (7) Where a member of the public provides written questions then the presiding member may elect for the questions to be responded to as normal business correspondence.
- (8) The presiding member may decide that a public question shall not be responded to where—
  - (a) the same or similar question was asked at a previous meeting, a response was provided and the member of the public is directed to the minutes of the meeting at which the response was provided;
  - (b) the member of the public uses public question time to make a statement, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the statement as a question; or
  - (c) the member of the public asks a question that is offensive or defamatory in nature, provided that the presiding member has taken all reasonable steps to assist the member of the public to phrase the question in a manner that is not offensive or defamatory.
- (9) The presiding member may agree to extend public question time beyond the prescribed 15 minutes, but not more than an additional 15 minutes.
- (10) Where an answer to a question is given at a meeting, a summary of the question and the answer is to be included in the minutes.

### **6.8 Distinguished visitors**

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

### **6.9 Deputations**

- (1) Any person or group wishing to be received as a deputation by the Council is to either—
  - (a) apply, before the meeting, to the CEO for approval; or
  - (b) with the approval of the presiding member, at the meeting, address the Council.
- (2) The CEO may either—
  - (a) approve the request and invite the deputation to attend a meeting of the Council; or
  - (b) refer the request to the Council to decide by simple majority whether or not to receive the deputation.
- (3) A deputation invited to attend a Council meeting is not to exceed a reasonable number as determined by the presiding member, and members of the delegation may address the Council, as permitted by the presiding member.
- (4) A person addressing the Council is to cease that address immediately after being directed to do so by the presiding member—
  - (a) in order to preserve order;
  - (b) the time permitted has expired; or
  - (c) the presentation has diverged from the purpose of the deputation.
- (5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the meeting.
- (6) Any matter which is the subject of a deputation to the Council is not to be decided by the Council until the deputation has completed its presentation.

### **6.10 Petitions**

- (1) A petition to the local government is to—



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

### **6.11 Presentations**

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

### **6.12 Participation at committee meetings**

- (1) In this clause a reference to a person is to a person who—
- (a) is entitled to attend a committee meeting;
  - (b) attends a committee meeting; and
  - (c) is not a member of that committee.
- (2) Without the consent of the presiding member, no person is to address a committee meeting.
- (3) A person is not to address the committee for a period exceeding five minutes without the agreement of the presiding member.
- (4) A person addressing the committee with the consent of the presiding member is to cease that address immediately after being directed to do so by the presiding member.
- (5) A person who fails to comply with a direction of the presiding member under subclause (4) may, by order of the presiding member, be removed from the meeting.
- (6) The Council may make a policy dealing with the circumstances in which a person may be given consent to address a committee meeting.

### **6.13 Public inspection of agenda materials**

The right of the public to inspect the documents referred to, and in accordance with, regulation 14 of the Regulations may be exercised at the office of the local government.

### **6.14 Confidentiality of information withheld**

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

### **6.15 Recording of proceedings**

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

### **6.16 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 shall extend due courtesy and respect to the Council and the processes under which it operates and shall comply with any direction by the presiding member.

- (3) A person observing a meeting shall not create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.
- (4) A person shall ensure that his or her mobile telephone or pager is not audible or used during any meeting of the Council.
- (5) The presiding member may expel a person from the meeting by ordering the person to leave the meeting room, if—
  - (a) after being warned, the person again acts contrary to this clause, or to this local law; or
  - (b) a person refuses or fails to comply with a direction of the presiding member.
- (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 in breach of this clause is subject to the penalties specified in clause 19.1.

## **PART 7—QUESTIONS BY MEMBERS**

### **7.1 Questions by members**

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

## **PART 8—CONDUCT OF MEMBERS**

### **8.1 Members to be in their proper places**

- (1) At the first meeting held after each election day, Council will, by consensus, determine a position at the Council table for each member.
- (2) Each member is to occupy his or her allotted position at each Council meeting until otherwise agreed by Council.

### **8.2 Official titles to be used**

A speaker, when referring to the President, Deputy President or presiding member, or a member or officer, is to use the title of that person's office.

### **8.3 Entering or leaving a meeting**

- (1) During the course of a meeting of the Council, a member is not to enter or leave the meeting without first advising the presiding member, in order to facilitate the recording in the minutes of the time of entry or departure, and ensuring a quorum is present in the meeting.
- (2) Where a member is leaving a meeting and does not intend to return, the member is to advise the presiding member of such prior to departing.

### **8.4 Members to indicate their intention to speak**

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

### **8.5 Priority of speaking**

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

### **8.6 Presiding member may take part in debates**

The presiding member may take part in a discussion of any matter before the Council, subject to compliance with this local law.

### **8.7 Relevance**

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

### **8.8 Speaking twice**

Without the consent of the presiding member, a member is not to address the Council more than once on any motion or amendment except—

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

### **8.9 Duration of speeches**

A member is not to speak on any matter for more than five minutes without the consent of the Council which, if given, is to be given without debate.

### **8.10 No speaking after conclusion of debate**

A member is not to speak on any motion or amendment—

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

### **8.11 No interruption**

A member is not to interrupt another member who is speaking unless—

- (a) to raise a point of order;
- (b) to call attention to the absence of a quorum;
- (c) to make a personal explanation under clause 8.12; or
- (d) to move a procedural motion that the member be no longer heard under clause 11.1.

### **8.12 Personal explanations**

(1) A member who wishes to make a personal explanation relating to a matter referred to by another member who is then speaking is to indicate to the presiding member his or her intention to make a personal explanation.

(2) The presiding member is to determine whether the personal explanation is to be heard immediately or at the conclusion of the speech by the other member.

(3) A member making a personal explanation is to confine his or her observations to a succinct statement relating to a specific part of the speech at which he or she may have been misunderstood.

### **8.13 No reopening of discussion**

A member is not to reopen discussion on any Council decision, except to move that the decision be revoked or changed.

### **8.14 Adverse reflection**

(1) A member is not to reflect adversely on a decision of the Council except on a motion that the decision be revoked or changed unless the meeting resolves, without debate, that the matter before the meeting cannot otherwise be adequately considered.

(2) Unless the meeting resolves, without debate, that the motion then before the meeting cannot otherwise be adequately considered, a member is not—

- (a) to reflect adversely on the character or actions of another member or officer; or
- (b) to impute any motive to a member or officer.

(3) A member is not to use offensive or objectionable expressions in reference to any member, officer or other person.

(4) If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes—

- (a) the presiding member is to cause the words used to be taken down and read to the meeting for verification; and
- (b) the Council may, by resolution, decide to record those words in the minutes.

### **8.15 Withdrawal of offensive language**

(1) A member must withdraw the expression and make a satisfactory apology when directed by the presiding member, if the presiding member is of the opinion that an expression used by the member—

- (a) in the absence of a resolution under subclause 8.14(2)—
    - (i) reflects adversely on the character or actions of another member or officer; or
    - (ii) imputes any motive to a member or officer; or
  - (b) is offensive or insulting.
- (2) If a member fails to comply with a direction of the presiding member under subclause (1), the presiding member may refuse to hear the member further on the matter then under discussion and call on the next speaker.

## **PART 9—PRESERVING ORDER**

### **9.1 Presiding member to preserve order**

- (1) The presiding member is to preserve order, and, whenever considered necessary, may call any member to order.
- (2) When the presiding member speaks during a debate, any member then speaking, or indicating that he or she wishes to speak, and every member present is to preserve strict silence so that the presiding member may be heard without interruption.
- (3) Subclause (2) is not to be used by the presiding member to exercise the right provided in clause 8.6, but to preserve order.

### **9.2 Point of order**

- (1) A member may object, by way of a point of order, only to a breach of—
  - (a) this local law; or
  - (b) any other written law.
- (2) Despite anything in this local law to the contrary, a point of order—
  - (a) takes precedence over any discussion; and
  - (b) until determined, suspends the consideration or discussion of any other matter.

### **9.3 Procedures on a point of order**

- (1) A member who is addressing the presiding member is not to be interrupted except on a point of order.
- (2) A member interrupted on a point of order shall not continue until permitted, but is to remain silent until—
  - (a) the member raising the point of order has been heard; and
  - (b) the presiding member has ruled on the point of order.

### **9.4 Calling attention to breach**

A member may, at any time, draw the attention of the presiding member to any breach of this local law.

### **9.5 Ruling by the presiding member**

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

### **9.6 Continued breach of order**

The presiding member may direct the member to refrain from taking any further part in the debate of that item, other than by voting, and the member is to comply with that direction, if a member—

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

### **9.7 Right of presiding member to adjourn**

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

## PART 10—DEBATE OF SUBSTANTIVE MOTIONS

### 10.1 Motions to be stated and in writing

Any member who wishes to move a substantive motion or an amendment to a substantive motion—

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

### 10.2 Motions to be supported

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

### 10.3 Unopposed business

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

### 10.4 Only one substantive motion at a time

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

### 10.5 Complex motions

The presiding member may require that a complex substantive motion, or a complex amendment to a substantive 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.

### 10.6 Order of call in debate

The presiding member—

- (a) is to manage debate in any manner considered appropriate to fully consider and determine the business before Council, and
- (b) may call speakers to a substantive motion or amendment in the following order—
  - (i) the mover to state the motion;
  - (ii) a seconder to the motion;
  - (iii) the mover to speak to the motion;
  - (iv) the seconder to speak to the motion;
  - (v) a speaker against the motion;
  - (vi) a speaker for the motion;
  - (vii) other speakers against and for the motion, alternating where possible; and
  - (viii) mover takes right of reply which closes debate.

### 10.7 Limit of debate

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

### 10.8 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.

### 10.9 Consent of seconder required for alteration

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

### 10.10 Order of amendments

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

### 10.11 Form of an amendment

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

### 10.12 Amendment must not negate original motion

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

#### **10.13 Relevance of amendments**

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

#### **10.14 Mover of motion may speak on amendment**

Any member may speak during debate on an amendment consistent with subclause 10.6(b).

#### **10.15 Effect of an amendment**

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

#### **10.16 Withdrawal of motion or amendment**

(1) Subject to subclause (2), the Council may, without debate, grant leave to withdraw a motion or amendment on the request of the mover of the motion or amendment and with the approval of the seconder.

(2) Where an amendment has been proposed to a substantive motion, the substantive motion is not to be withdrawn, except by consent of the majority of members present, until the amendment proposed has been withdrawn or lost.

#### **10.17 Right of reply**

(1) The mover of a substantive motion has the right of reply.

(2) The mover of any amendment to a substantive motion has a right of reply.

(3) The right of the reply may only be exercised—

- (a) where no amendment is moved to the substantive motion, at the conclusion of the discussion on the motion; or
- (b) where one or more amendments have been moved to the substantive motion, at the conclusion of the discussion on the substantive motion and any amendments.

(4) After the mover of the substantive motion has commenced the reply—

- (a) no other member is to speak on the motion;
- (b) there is to be no further discussion on, or any further amendment to, the motion.

(5) The right of the reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

(6) At the conclusion of the right of reply, the substantive motion, or the substantive motion as amended, is immediately to be put to the vote.

## **PART 11—PROCEDURAL MOTIONS**

### **11.1 Permissible procedural motions**

In addition to the right to move an amendment to a substantive motion a member may move the following procedural motions—

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

### **11.2 No debate**

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

(2) The mover of a motion specified in clause 11.1 (d) or (e) may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

### **11.3 Procedural motion—right of reply on substantive motion**

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

### **11.4 Meeting to proceed to the next business**

(1) If carried, the motion that the meeting proceed to the next item of business, has the effect that—

- (a) the debate on the substantive motion or amendment ceases immediately;
- (b) no decision is made on the substantive motion;
- (c) the Council moves to the next item of business; and

- (d) is to state either—
  - (i) when the matter is to be reconsidered; or
  - (ii) that there is no requirement for the matter to be raised again for consideration.
- (2) No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move a motion to proceed to the next business.

#### **11.5 Debate to be adjourned**

A motion that the debate be adjourned—

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

#### **11.6 Meeting now adjourn**

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

#### **11.7 Question to be put**

- (1) If the motion that the question be now put is carried during debate on a substantive motion without amendment, the presiding member is to offer the right of reply and then put the motion to the vote without further debate.
- (2) If the motion that the motion be now put is carried during discussion of an amendment, the presiding member is to put the amendment to the vote without further debate.
- (3) If lost, the motion that the question be now put causes debate to continue.
- (4) No person who has moved, seconded, or spoken for or against the substantive motion, or any amendment to the substantive motion, may move a motion that the question be now put.

#### **11.8 Member to be no longer heard**

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

#### **11.9 Ruling of the presiding member to be disagreed with**

If the motion that the ruling of the presiding member be disagreed with is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

### **PART 12—DISCLOSURE OF INTERESTS**

#### **12.1 Disclosure of interests**

Disclosure of interests is dealt with in Division 6 of Part 5 of the Act.

### **PART 13—VOTING**

#### **13.1 Motion—when put**

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

#### **13.2 Voting**

Voting is dealt with in section 5.25(1)(d) the Act and regulation 9 of the Regulations.

#### **13.3 Majorities required for decisions**

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

#### **13.4 Method of taking vote**

- (1) In taking the vote on any motion or amendment the presiding member—
  - (a) is to put the motion, first in the affirmative, and then in the negative;

- (b) may put the motion in this way as often as may be necessary to enable determination whether the affirmative or the negative has the majority of votes;
- (c) may accept a vote on the voices or may require a show of hands; and,
- (d) subject to this clause, is to declare the result.

(2) If a member calls for a show of hands, the result of the vote is to be determined on the count of raised hands.

### **13.5 Recording of votes**

Recording of votes is dealt with in section 5.21(4) of the Act.

## **PART 14—MINUTES OF MEETINGS**

### **14.1 Keeping of minutes**

The keeping and confirmation of minutes are dealt with in section 5.22 of the Act.

### **14.2 Content of minutes**

(1) The content of minutes is dealt with in regulation 11 of the Regulations.

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

### **14.3 Public inspection of unconfirmed minutes**

The public inspection of unconfirmed minutes is dealt with in regulation 13 of the Regulations.

### **14.4 Confirmation of minutes**

(1) When minutes of an ordinary meeting of the Council are distributed for consideration prior to their confirmation at the next meeting, if a member is dissatisfied with the accuracy of the minutes, the member may provide the local government with a written copy of the alternative wording to amend the minutes no later than seven working days before the next ordinary meeting of the Council.

(2) At the next ordinary meeting of the Council, the member who provided the alternative wording shall, at the time for confirmation of minutes—

- (a) state the item or items with which he or she is dissatisfied; and
- (b) propose a motion clearly outlining the alternative wording to amend the minutes.

(3) Members must not discuss items of business contained in the minutes, other than discussion as to their accuracy as a record of the proceedings.

## **PART 15—ADJOURNMENT OF MEETING**

### **15.1 Meeting may be adjourned**

The Council may adjourn any meeting—

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

### **15.2 Effect of adjournment**

Where any matter, motion, debate or meeting is adjourned under this local law, debate is to be resumed at the next meeting at the point where it was interrupted.

## **PART 16—REVOKING OR CHANGING DECISIONS**

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

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

### **16.2 Limitations on powers to revoke or change decisions**

(1) Subject to subclause (2), the Council or a committee is not to consider a motion to revoke or change a decision—

- (a) where, at the time the motion is moved or notice is given, any action has been taken under clause 16.3 to implement the decision; or
- (b) where the decision is procedural in its form or effect.

(2) The Council or a committee may consider a motion to revoke or change a decision of the kind described in subclause (1)(a) if the motion is accompanied by a written statement of the legal and financial consequences of carrying the motion.

### **16.3 Implementing a decision**

(1) In this clause—



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

## **PART 17—SUSPENSION OF LOCAL LAW**

### **17.1 Suspension of local law**

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

### **17.2 Where local law does not apply**

- (1) The presiding member is to decide any question relating to the conduct of the meeting in situations where—
  - (a) one or more provisions of this local law have been suspended; or
  - (b) a matter is not regulated by the Act, the Regulations or this local law.
- (2) The decision of the presiding member under subclause (1) is final, except where a motion is moved and carried under clause 11.9.
- (3) Notwithstanding the provisions of subclause (1), the presiding member may call for a vote on a ruling open to him or her under subclause (1).
- (4) The vote is to be taken without a motion and without debate and the presiding member shall be bound by the outcome of the vote.

## **PART 18—MEETINGS OF ELECTORS**

### **18.1 Electors' general meetings**

Electors' general meetings are dealt with in section 5.27 of the Act.

### **18.2 Matters for discussion at electors' general meetings**

The matters to be discussed at electors' general meetings are dealt with in regulation 15 of the Regulations.

### **18.3 Electors' special meetings**

Electors' special meetings are dealt with in section 5.28 of the Act.

### **18.4 Requests for electors' special meetings**

Requests for electors' special meetings are dealt with in regulation 16 of the Regulations.

### **18.5 Convening electors' meetings**

Convening electors' meetings is dealt with in section 5.29 of the Act.

**18.6 Who presides at electors' meetings**

Who presides at electors' meetings is dealt with in section 5.30 of the Act.

**18.7 Procedure for electors' meetings**

(1) The procedure for electors' meetings is dealt with in section 5.31 of the Act and regulation 18 of the Regulations.

(2) In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding person is to have regard to this local law.

**18.8 Participation of non-electors**

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

**18.9 Voting at electors' meetings**

Voting at electors' meetings is dealt with in regulation 17 of the Regulations.

**18.10 Minutes of electors' meetings**

Minutes of electors' meetings are dealt with in section 5.32 of the Act.

**18.11 Decisions made at electors' meetings**

Decisions made at electors' meetings are dealt with in section 5.33 of the Act.

**PART 19—ENFORCEMENT**

**19.1 Penalty for breach**

A person who breaches a provision of this local law commits an offence, and is liable for a penalty up to \$1,000, and if the breach is of a continuing nature, a further penalty of up to \$500 in respect of each day during which the offence has continued.

**19.2 Who can prosecute**

Who can prosecute is dealt with in the Act.

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Dated 25 November 2021

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

G. DWYER, President.  
B. JOINER, Chief Executive Officer.

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