

**TAMALA PARK  
REGIONAL COUNCIL**

# **Inaugural Meeting of Council**

## **AGENDA**

**Thursday 9 March 2006  
Town of Cambridge, 6pm**

TAMALA PARK  
REGIONAL COUNCIL  
(TPRC)  
COMPRISES THE  
FOLLOWING  
COUNCILS:

Town of Cambridge  
City of Joondalup  
City of Perth  
City of Stirling  
Town of Victoria Park  
Town of Vincent  
City of Wanneroo

## **TAMALA PARK REGIONAL COUNCIL**

Councillors of the Tamala Park Regional Council are respectfully advised that the inaugural Meeting of Council will be held in the Council Chambers of the Town of Cambridge, 1 Bold Park Drive, Floreat, at 6pm on Thursday 9 March 2006.

The business papers pertaining to the meeting follow.

Your attendance is requested.

Yours faithfully

### **LINDSAY DELAHAUNTY**

Chief Executive Officer, City of Stirling

*On behalf of the participant group of the Tamala Park Regional Council*

## **MEMBERSHIP**

<b>OWNER COUNCIL</b>	<b>MEMBER</b>	<b>DEPUTY MEMBER</b>
Town of Cambridge	Mayor Anderton	Cr Barlow
City of Joondalup	Cmr Paterson Cmr Clough	Cmr Anderson
City of Perth	Cr Evangel	Cr Sutherland
City of Stirling	Mayor Tyzack Cr Boothman Cr Clarey Cr Stewart	Cr Ham Cr Rose
Town of Victoria Park	Cr Nairn	Cr Skinner
Town of Vincent	Mayor Catania	Deputy Mayor Farrell
City of Wanneroo	Mayor Kelly Deputy Mayor Salpietro	Cr Treby Cr Roberts

## **DECLARATION BY ELECTED MEMBER OF COUNCIL**

Prior to the TPRC Council meeting, Councillors will need to make a Declaration in the form shown on the next page.

Council members may remember that the process for swearing in Councillors has previously been in two parts. The first is being an oath or affirmation of allegiance to the Queen. The second has been the declaration in relation to the office of Councillor, which includes reference to a code of conduct.

Local government constitution regulations gazetted on Friday 20 January 2006 removed the requirement for Councillors to swear an oath or make an affirmation of allegiance and therefore the only Declaration that is necessary is the one on the following page.

The Hon. John Ford JP MLC, Minister for Local Government & Regional Development; Fisheries; the Kimberley; Pilbara & Gascoyne has been invited to attend prior to the meeting (between 5.30pm and 6pm) to witness the declarations made by Tamala Park Regional Council members and deputies.

In view of the large number of members and deputies, it has been proposed that all elected members and deputies could undertake the swearing in ceremony in unison.



**TAMALA PARK  
REGIONAL COUNCIL**

Form 7  
Local Government Act 1995  
Local Government (Constitution) Regulations 1998 [reg.13(1)(c)]

**DECLARATION BY ELECTED MEMBER OF COUNCIL**

Declaration by elected member

I,

of

having been elected to the office of Councillor of the Tamala Park Regional Council declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgement and ability, and will observe the code of conduct adopted by the Tamala Park Regional Council under section 5.103 of the *Local Government Act 1995*.

Declared at        *Town of Cambridge  
Municipal Offices  
1 Bold Park Drive  
FLOREAT WA 6014*

On the 9<sup>th</sup> day of March 2006

By .....  
(Insert name)

Before me

.....  
(Name)

.....  
(Signed)

## **INAUGURAL MEETING OF COUNCIL**

### **PRELIMINARIES**

#### **▪ DECLARATIONS OF OFFICE BY COUNCIL MEMBERS AND DEPUTIES**

NB: The Minister for Local Government & Regional Development the Hon. Jon Ford has been invited to witness the declarations of members. In the event that the Minister is unavailable, an alternative authorised person will be in attendance.

### **AGENDA ITEMS**

1. OFFICIAL OPENING
2. ELECTION OF CHAIRMAN
3. ELECTION OF DEPUTY CHAIRMAN
4. PUBLIC QUESTION TIME
5. APOLOGIES AND LEAVE OF ABSENCE
6. PETITIONS
- ~~7. CONFIRMATION OF MINUTES~~
8. ANNOUNCEMENTS BY THE PERSON PRESIDING
9. REPORTS
  - 9.1 Establishment of the Council
  - 9.2 Code of Conduct for TPRC
  - 9.3 Standing Orders Local Law (Proposed)
  - 9.4 TPRC Logo and Common Seal (Proposed)
  - 9.5 Schedule of Meetings (Proposed)
  - 9.6 Elected Member Allowances
  - 9.7 Appointment of Audit Committee
  - 9.8 Establishment Agreement
  - 9.9 Appointment of Chief Executive Officer
  - 9.10 Council Member Primary Returns
  - 9.11 Background Information
  - 9.12 Meeting Arrangements
10. CLOSURE

**Item 9.1**

**SUBJECT: ESTABLISHMENT OF THE COUNCIL**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Deputy Chief Executive Officer of City of Stirling (for CEO Group)

**Recommendation**

- 1. That the formal establishment of the Tamala Park Regional Council by notification in the Government Gazette dated 3 February 2006 page 535 be NOTED.**

**Report Purpose**

To advise the legal establishment of the Tamala Park Regional Council.

**Relevant Documents**

Attachments: Government Gazette (extract) dated 3 February 2006

Available for viewing at the meeting: Not Applicable

**Background**

Section 3.61 of the Local Government Act provides that local authorities may combine to form a Regional Council for a nominated purpose.

Seven local governments own the fee simple of Lot 118 Mindarie situated in the local government district of the City of Wanneroo.

The seven local governments and their ownership shares in Lot 118 are listed in the table below:

Council	Project Shareholding Joint Development Shares
Town of Cambridge	1/12
City of Perth	1/12
Town of Victoria Park	1/12
Town of Vincent	1/12
City of Joondalup	2/12
City of Wanneroo	2/12
City of Stirling	4/12

The seven local governments have resolved to become participants in the Tamala Park Regional Council. The local governments have complied with the requirements of the Local Government Act for the preparation of an Establishment Agreement setting out the purpose of the Council and the Council's objectives.

The Establishment Agreement is an attachment to a later item on this agenda.

The Establishment Agreement was formally signed by all of the participants in the Mindarie Regional Council and submitted to the Minister for Local Government for consideration and approval in January 2006.

The Minister has taken advice on the proposal for the establishment of the Tamala Park Regional Council and has formally approved the Council by endorsing his approval on the Establishment Agreement and authorising gazettal of approval as required by Section 3.61 of the Local Government Act.

### **Comment**

The Tamala Park Regional Council now has legal status. It is a Council constituted under the Local Government Act as a body corporate.

Pursuant to the provisions of section 56 of the *Court Security and Custodial Services Act 1999*, the Director General of the Ministry of Justice has revoked the following Permit to do High-Level Security Work—

Surname	First Name(s)	Permit Number	Date Permit Revoked
Grey	Jeremy Martin	CS6-016	27/01/2006
Cooper	Neale	CS6-216	27/01/2006

This notice is published under section 57(1) of the *Court Security and Custodial Services Act 1999*.

ANTHONY DEBARRO, A/SCS Contract Manager.

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## LOCAL GOVERNMENT

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LG401\*

### LOCAL GOVERNMENT ACT 1995

#### ESTABLISHMENT OF A REGIONAL COUNCIL

In accordance with section 3.61 of the Local Government Act, I, John Bowler, being the Minister for Local Government, hereby declare the establishment of a regional council to be known as the Tamala Park Regional Council.

The purpose of the regional council is primarily to undertake the rezoning, subdivision, development, marketing and sale of the land described in the establishment agreement, such land including part of Lot 118 on Deposited Plan 28300, for the benefit of the communities of the participants.

The regional council shall be established effective from the date of the publication of this notice in the *Government Gazette*.

JOHN BOWLER JP MLA, Minister for Local Government  
and Regional Development.

LG402\*

### LOCAL GOVERNMENT ACT 1995

#### *Shire of Capel*

#### (BASIS OF RATES)

Department of Local Government  
and Regional Development,  
9 January 2006.

DLGRD: CP5-4#05

It is hereby notified for public information that in accordance with the provisions of section 6.28 of the *Local Government Act 1995*, the Director General of the Department of Local Government and Regional Development under delegation from the Hon John Bowler MLA, Minister for Local Government and Regional Development being charged for the time being, with the administration of the *Local Government Act 1995*, has determined that the method of valuing the land described in the schedule hereunder shall be gross rental value for the purposes of rating with effect from 9 January 2006.

CHERYL GWILLIAM, Director General.

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### SCHEDULE

#### ADDITIONS TO GROSS RENTAL VALUE AREA

#### SHIRE OF CAPEL

All those portions of land being Lots 50 to 56 inclusive as shown on Deposited Plan 46332.



**Item 9.2**

**SUBJECT: CODE OF CONDUCT FOR TAMALA PARK REGIONAL COUNCIL**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Deputy Chief Executive Officer of City of Stirling (for CEO Group)

**Recommendation**

1. That the Model Code of Conduct developed by the West Australian Local Government Association be **ADOPTED** as the Code of Conduct for the Tamala Park Regional Council (TPRC).
2. That a review of the Code of Conduct be **SCHEDULED** for January 2007.
3. That it be **NOTED** that the Code of Conduct adopted as in (1) is the Code of Conduct that has been used in the *Declaration by Elected Members of Council* taking elected office of the Tamala Park Regional Council.

**Report Purpose**

To propose compliance with Section 5.103 of the Local Government Act and regulation 34B of the Local Government Act constitution regulations by adoption of a Code of Conduct for the TPRC.

**Relevant Documents**

Attachments: Code of Conduct for Tamala Park Regional Council (proposed – based upon the WALGA Model Code of Conduct)

Available for viewing at the meeting: WALGA Councillor's Manual (edition May 2005)

**Background**

The WALGA Councillor's Manual explains the Code of Conduct in the following terms:

*The Model Code of Conduct provides elected members and staff in Local Government with consistent guidelines for an acceptable standard of professional conduct. The Code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability in individual Local Governments.*

*The Model Code of Conduct is complementary to the principles adopted in the Local Government Act and regulations which incorporates four fundamental aims to result in:*

- (a) *better decision-making by local governments;*
- (b) *greater community participation in the decisions and affairs of local governments;*
- (c) *greater accountability of local governments to their communities; and*

(d) *more efficient and effective local government*

*The Code provides a guide and a basis of expectations for elected members and staff. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.*

The requirements of legislation cover the following;

- Every local government is to prepare or adopt a Code of Conduct to be observed by Council members, committee members and employees.
- A local government is to review its Code of Conduct within 12 months after each ordinary elections day and make such changes to the Code as it considers appropriate.
- Regulations may prescribe Codes of Conduct or, the content of, and matters in relation to, Codes of Conduct and any Code of Conduct or provision of a Code of Conduct applying to a local government is of effect only to the extent to which it is not inconsistent with the regulations.  
*In the regulations 'Code of Conduct' means a Code of Conduct prepared or adopted under s 5.103(1).*
- The form of declaration for a mayor, president, deputy mayor, deputy president or councillor (form 7) includes an undertaking to observe the Code of Conduct adopted by the local government.

An amendment made to the Local Government Act in 2004 enables regulations to be made which will prescribe a particular Code of Conduct for employees (Chief Executive Officers).

## **Comment**

1. It is mandatory for a Local Government to adopt a Code of Conduct.
2. It is a requirement that, in making the *Declaration by Elected Members of Council* that the elected member agree to uphold the Code of Conduct.
3. The Code of Conduct must apply for the local authority i.e. there may not be individual Codes of Conduct sworn by individual councillors.
4. The Code of Conduct must be reviewed within 12 months of each ordinary election day. For the TPRC this day is the same as the ordinary election day for other local governments.
5. It is a requirement of the annual compliance return to the Department of Local Government & Regional Development that a certification be given that no elected officer has performed duties as an elected officer unless he/she made the *Declaration by Elected Members of Council*, which includes a reference to the Code of Conduct.
6. The contingency that a new Council will not have a Code of Conduct in place for use by elected members in making the *Declaration by Elected Members of Council* has been discussed with the Department of Local Government & Regional Development. The Local Government Act does not provide for this contingency. The Department of Local Government & Regional Development supports the view that the appropriate action in this circumstance is for Council members to swear or affirm a common Code of Conduct and then to formally adopt that Code of Conduct at the first Council meeting.

7. The code of conduct requires that Council members and officers do not accept gifts valued at more than a nominated amount and that any gifts accepted below the nominated amount be entered in a gift register. Constituent Councils have nominated different amounts in their codes of conducts. The range rests between \$50 and \$500, with the most frequent occurrence being \$200. The amount of \$200 has therefore been entered in paragraph 2.4 of the Code of Conduct as the cut off point registration in the gift register/non-acceptance of gifts.

### **Policy and Legislative Implications**

The proposed action will satisfy the provisions of Section 5.103 of the Local Government Act.

[..\..\..\Finance\FinanceAdmin\RODC\\_Land\Tamala\\_Park\\_Regional\\_Council\9\\_March\\_2006\\_Meeting\Item 9.1 Attachment - Government Gazette Extract 3 February 2006 page 535.pdf](..\..\..\Finance\FinanceAdmin\RODC_Land\Tamala_Park_Regional_Council\9_March_2006_Meeting\Item 9.1 Attachment - Government Gazette Extract 3 February 2006 page 535.pdf)



# **Tamala Park Regional Council Code of Conduct for Elected Members and Staff**

**February 2006**

*Based upon the WALGA Model Code of Conduct*

# **TAMALA PARK REGIONAL COUNCIL CODE OF CONDUCT**

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## **PREAMBLE**

The Code of Conduct provides elected members and staff in Local Government with consistent guidelines for an acceptable standard of professional conduct.

The Code addresses in a concise manner the broader issue of ethnical responsibility and encourages greater transparency and accountability in individual Local Governments.

The Code is complementary to the principles adopted in the Local Government Act and regulations which incorporates four fundamental aims to result in:

- a) Better decision-making by local governments;
- b) Greater community participation in the decisions and affairs of local governments;
- c) Greater accountability of local governments to their communities; and
- d) More efficient and effective local government.

The Code provides a guide and a basis of expectations for elected members and staff. It encourages a commitment to ethical and professional behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

## **ROLE OF ELECTED MEMBERS**

A Councillor's primary role is to represent the community, and the effective translation of the community's needs and aspirations in to a direction and future for the Local Government will be the focus of the Councillor's public life.

A Councillor is part of the team in which the community has placed its trust to make decisions on its behalf and the community is therefore entitled to expect high standards of conduct from its elected representatives.

In fulfilling the various roles, elected members' activities will focus on:

- Achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- Achieving sound financial management and accountability in relation to the Local Government's finances;
- Ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;

# TAMALA PARK REGIONAL COUNCIL CODE OF CONDUCT

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- Working with other governments and organisations to achieve benefits for the community at both a local and regional level;
- Having an awareness of the statutory obligations imposed on Councillors and on Local Governments.

## **1. CONFLICT AND DISCLOSURE OF INTEREST**

### **1.1 Conflict of Interest**

- a) Members and staff will ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their professional duties.
- b) Staff will not engage in private work with or for any person or body with an interest in a proposed or current contract with the Local Government, without first making disclosure to the Chief Executive Officer. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- c) Members and staff will lodge written notice with the Chief Executive Officer describing an intention to undertake a dealing in land within the municipality or which may otherwise be in conflict with the Council's functions (other than purchasing the principal place of residence).
- d) Members and staff who exercise a recruitment or other discretionary function will make disclosure before dealing with relatives or close friends and will disqualify themselves from dealing with those persons.
- e) Staff will refrain from partisan political activities which could cast doubt on their neutrality and impartiality in acting in their professional capacity.

An individual's rights to maintain their own political convictions are not impinged upon by this clause. It is recognised that such convictions cannot be a basis for discrimination and this is supported by anti discriminatory legislation.

### **1.2 Financial Interest**

Members and staff will adopt the principles of disclosure of financial interest as contained within the Local Government Act.

### **1.3 Disclosure of Interest**

# **TAMALA PARK REGIONAL COUNCIL CODE OF CONDUCT**

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- a) In addition to disclosure of financial interests, members and staff, including persons under a contract for services –
- attending a council or committee meeting; or
  - giving advice to a council or committee meeting;
- are required to disclose any interest they have in a matter to be discussed at the meeting that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected.
- b) Where an interest must be disclosed under (a) above, the disclosure is to be made at the meeting immediately before the matter is discussed or at the time the advice is given, and is to be recorded in the minutes of the meeting.

## **2. PERSONAL BENEFIT**

### **2.1 Use of Confidential Information**

Members and staff will not use confidential information to gain improper advantage for themselves or for any other person or body, in ways which are inconsistent with their obligation to act impartially, or to improperly cause harm or detriment to any person or organisation.

### **2.2 Intellectual Property**

The title to Intellectual Property in all duties relating to contracts of employment will be assigned to the Local Government upon its creation unless otherwise agreed by separate contract.

### **2.3 Improper or Undue Influence**

Members and staff will not take advantage of their position to improperly influence other members or staff in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body.

### **2.4 Gifts and Bribery**

- a) Members and staff are not to accept a gift, other than a gift of or below \$200 from a person who is undertaking, or is likely to undertake, business:
- that requires the person to obtain any authorisation from the local government;

## TAMALA PARK REGIONAL COUNCIL CODE OF CONDUCT

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- by way of contract between the person and the local government; or
  - by way of providing any service to the local government.
- b) Members and staff who accept a gift of or below \$200 from a person referred to in (a) above are to record in a register of token gifts:
- the names of the persons who gave and received the gift;
  - the date of receipt of the gift; and
  - a description, and the estimated value of the gift;
- unless the Local Government decided that –
- specified gifts given by way of hospitality; or
  - specified classes of gift given by way of hospitality,
- need not be recorded.
- c) This clause does not apply to gifts received from a relative (as defined in section 5.74(1) of the Local Government Act) or an electoral gift (to which other disclosure provisions apply).

### **3. CONDUCT OF MEMBERS AND STAFF**

#### **3.1 Personal Behaviour**

- a) Members and staff will:
- i) act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
  - ii) perform their duties impartially and in the best interests of the Local Government uninfluenced by fear or favour;
  - iii) act in good faith (i.e. honestly, for the proper purpose, and without exceeding their powers) in the interests of the Local Government and the community;
  - iv) make no allegations which are improper or derogatory (unless true and in public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment; and
  - v) always act in accordance with their obligation of fidelity to the Local Government.
- b) Members will represent and promote the interests of the Local Government, while recognising their special duty to their own constituents.



## **TAMALA PARK REGIONAL COUNCIL CODE OF CONDUCT**

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### **3.2 Honesty and Integrity**

Members and staff will:

- a) Observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- b) Bring to the notice of the Chairman any dishonesty or possible dishonesty on the part of any other member, and in the case of an employee to the Chief Executive Officer.
- c) Be frank and honest in their official dealing with each other.

### **3.3 Performance of Duties**

- a) While on duty, staff will give their whole time and attention to the Local Government's business and ensure that their work is carried out efficiently, economically and effectively, and that their standard of work reflects favourably both on them and on the Local Government.
- b) Members will at all times exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making but treating all matters on individual merits. Members will be as informed as possible about the functions of the Council, and treat all members of the community honestly and fairly.

### **3.4 Compliance with Lawful Orders**

- a) Members and staff will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution can not be achieved, with the Chief Executive Officer.
- b) Members and staff will give effect to the lawful policies of the Local Government, whether or not they agree with or approve of them.

### **3.5 Administrative and Management Practices**

Members and staff will ensure compliance with proper and reasonable administrative practices and conduct, professional and responsible management practices.

### **3.6 Corporate Obligations**

- a) Standard of Dress

## TAMALA PARK REGIONAL COUNCIL CODE OF CONDUCT

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Staff are expected to comply with neat and responsible dress standard at all times. Management reserves the right to raise the issue of dress with individual staff.

b) Communication and Public Relations

- i) All aspects of communication by staff (including verbal, written or personal), involving Local Government's activities should reflect the status and objectives of that Local Government. Communications should be accurate, polite and professional.
- ii) As a representative of the community Members need to be not only responsive to community views, but to adequately communicate the attitudes and decisions of the Council. In doing so Members should acknowledge that:
  - as a member of the Council there is a respect for the decision making processes of the Council which are based on a decision of the majority of the Council;
  - information of a confidential nature ought not be communicated until it is no longer treated as confidential;
  - information relating to decisions of the Council on approvals, permits and so on ought only be communicated in an official capacity by a designated officer of the Council;
  - information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.

### **3.7 Relationships between Members and Staff**

An effective Councillor will work as part of the Council team with the Chief Executive Officer and other members of staff. That teamwork will only occur if Members and staff have a mutual respect and co-operate with each other to achieve the Council's corporate goals and implement the Council's strategies. To achieve that position Members need to:

- Accept that their role is a leadership, not a management or administrative one;
- Acknowledge that they have no capacity to individually direct members of staff to carry out particular functions;
- Refrain from publicly criticising staff in a way that casts aspersions on their professional competence and credibility.

### **3.8 Appointments to Committees**

As part of their representative role Members are often asked to represent the Council on external organisations. It is important that Members:

- Clearly understand the basis of their appointment; and
- Provide regular reports on the activities of the organisation.

## **4. DEALING WITH COUNCIL PROPERTY**

### **4.1 Use of Local Government Resources**

Members and staff will:

- a) Be scrupulously honest in their use of the Local Government's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or body;
- b) Use the Local Government resources entrusted to them effectively and economically in the course of their duties; and
- c) Not use the Local Government's resources (including the services of Council staff) for private purposes (other than when supplied as part of a contract of employment), unless properly authorised to do so, and appropriate payments are made (as determined by the Chief Executive Officer).

### **4.2 Travelling and Sustenance Expenses**

Members and staff will only claim or accept travelling and sustenance expenses arising out of travel related matters which have a direct bearing on the services, policies or business of the Local Government in accordance with Local Government policy and the provision of the Local Government Act.

### **4.3 Access to Information**

- i) Staff will ensure that members are given access to all information necessary for them to properly perform their functions and comply with their responsibilities as members.
- ii) Members will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council.

**Item 9.3**

**SUBJECT: STANDING ORDERS LOCAL LAW (PROPOSED)**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Deputy Chief Executive Officer of City of Stirling (for CEO Group)

**Recommendation**

1. That the Standing Orders Local Law submitted to the meeting be **ADOPTED** for the purpose of guiding Tamala Park Regional Council meetings until such time as a Standing Orders Local Law for the Tamala Park Regional Council (TPRC) is formally promulgated.
2. That the Standing Orders Local Law submitted to the meeting be **PROPOSED** for adoption as the Standing Orders Local Law for the Tamala Park Regional Council.
3. That local and state-wide public notice of the proposed local law be **ADVERTISED** as required by the Local Government Act and Regulations.
4. That the Council **NOTES** that the purpose of the Standing Orders Local Law is to provide rules and guidelines for the conduct of meetings dealing with the business of the Council and committees and:
  - That it is intended that the Standing Orders Local Law will result in:
    - i. Better decision making by the Council and committees;
    - ii. The orderly and efficient conduct of meetings dealing with the City's affairs; and
    - iii. Greater community understanding of the business of the Council and committees.

**Report Purpose**

To propose Standing Orders Local Law for the conduct of Council meetings, the preparation of meeting agendas and the recording of Council minutes.

**Relevant Documents**

Attachments: Proposed Tamala Park Regional Council Standing Orders Local Law – February 2006

Available for viewing at the meeting: Not Applicable

**Background**

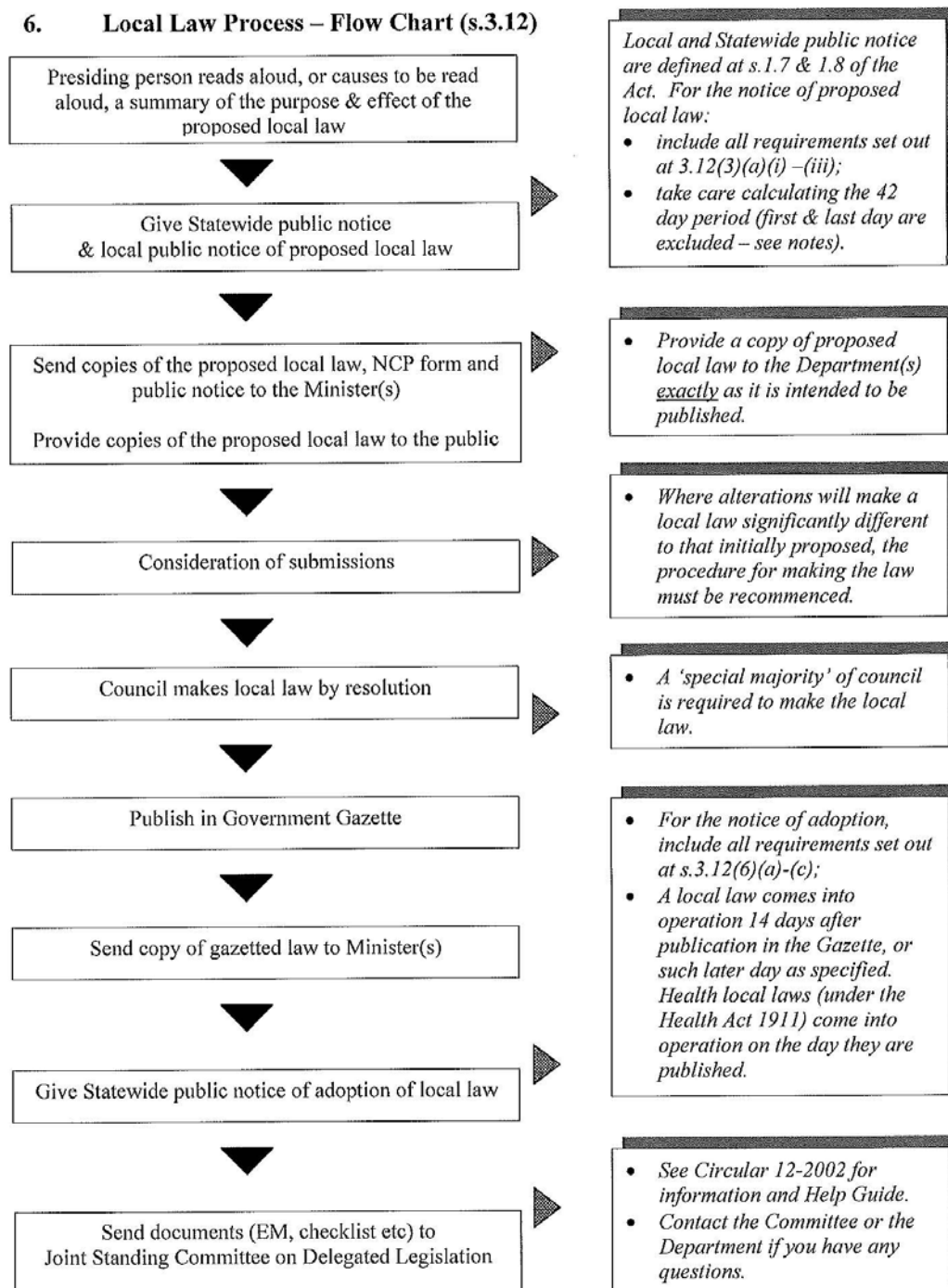
The conduct of formal meetings of local government Councils requires the adoption of Standing Orders Local Law to facilitate business at Council and committee meetings.

The Local Government Act sets out a number of requirements relative to the conduct of Council and committee meetings.

All of the participant Councils in the Tamala Park Regional Council have Standing Orders Local Law but all are significantly different from each other.

The West Australian Local Government Association (in conjunction with solicitors Minter Ellison) have prepared a draft model Standing Orders Local Law which recognises all of the requirements of the Local Government Act and the Functions and General Regulations.

The procedure for making a local law is set out in the following flowchart:



State-wide and public advertising is required for proposed local laws.

Public submissions may be made and must be considered by Council.

Following consideration of public submissions the Council may adopt the local law following which the local law must be published in the Gazette, sent to the Minister and further published by notice in a newspaper. The local law is then submitted for consideration by the WA Parliament joint standing committee on delegated legislation.

### **Comment**

1. Minor changes have been made to the proposed Standing Orders Local Law, these changes are highlighted in the document.
2. Recommendation (1) suggests utilisation of the proposed Standing Orders Local Law while the statutory process of developing a Standing Orders Local Law proceeds.
3. As the Council transacts business, it may find that adjustments are required to the local laws. Additions and amendments may be proposed at any time.
4. The draft model local law as now submitted has the virtue of being thoroughly tested against the requirement of the Local Government Act and is therefore unlikely to meet any serious challenge. This may be considered important in moving as quickly as possible to establish a Tamala Park Regional Council Standing Orders Local Law that has formal status.

### **Consultation/Communication Implications**

The proposed local law must be given state and local advertising for a minimum of 42 days.

Subsequent to adoption by the Council, further advertising is required and notification to the Office of the Minister for Local Government & Regional Development; Fisheries; the Kimberley; Pilbara and Gascoyne and the WA Parliament.

### **Policy and Legislative Implications**

The Standing Orders Local Law will set the procedure for conduct of Council business.



TAMALA PARK  
REGIONAL COUNCIL

# **Tamala Park Regional Council Standing Orders Local Law**

## **February 2006**

WESTERN AUSTRALIA

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~~Model~~ Tamala Park Regional Council Local Law (Standing Orders) ~~1998~~2006

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ARRANGEMENT

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**Part 1 - Preliminary**

- 1.1 Citation
- 1.2 Application
- 1.3 Content and Intent
- ~~1.34~~ Interpretation
- ~~1.4 Repeal~~

**Part 2 - Calling Meetings**

- 2.1 Calling Committee Meetings
- 2.2 Notice of Special Council Meetings

**Part 3 - Business of the Meeting**

- 3.1 Business to be Specified on Notice Paper
- 3.2 Order of Business
- 3.3 Public Question Time
- 3.4 Petitions
- 3.5 Confirmation of Minutes
- 3.6 Announcements by the Person Presiding Without Discussion
- 3.7 Matters for which Meeting May be Closed
- 3.8 Correspondence
- 3.9 Motions of which Previous Notice has been Given
- 3.10 Questions by Members of which Due Notice has been given.
- 3.11 Urgent Business Approved By the Person Presiding or by Decision
- 3.12 Deputations



**Part 4 - Public Access to Agenda Material**

- 4.1 Inspection Entitlement
- 4.2 Confidentiality of Information Withheld

**Part 5 - Disclosure of Financial Interests**

- 5.1 Separation of Committee Recommendations
- 5.2 Member with an Interest may ask to be Present
- 5.3 Member with an Interest may ask Permission to Participate
- 5.4 Invitation to Return to Provide Information
- 5.5 Disclosures by Employees

**Part 6 - Quorum**

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LOCAL GOVERNMENT ACT 1995

**Tamala Park Regional Council Standing Orders Local Law 2006**

**Part 1 - Preliminary**

**1.1 Citation**

(1) This Local Law may be cited as the **Tamala Park Regional Council** Standing Orders Local Law **2006**.

(2) In the clauses to follow, this Local Law is referred to as “the Standing Orders.”

**1.2 Application**

All meetings of the Council or a committee and other matters as prescribed are to be conducted in accordance with the Act, the Regulations and these Standing Orders.

**1.3 Content and Intent**

(1) These Standing Orders provide rules and guidelines for the conduct of meetings dealing with the business of the council and committees.

(2) These Standing Orders are intended to result in:

(a) better decision-making by the council and committees;

(b) the orderly and efficient conduct of meetings dealing with the Tamala Park Regional Council corporate affairs; and

(c) greater community understanding of the business of the council and committees

**1.34 Interpretation**

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

“CEO” means the Chief Executive Officer or Acting Chief Executive Officer for the time being of the **Tamala Park Regional Council**;

“committee” means a committee of the Council;

“Council” means the Council of the **Tamala Park Regional Council**;

“presiding member” means the presiding member of a committee or the deputy presiding member, or a member of the committee when performing a function of the presiding member in accordance with the Act.

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

“simple majority” is more than 50% of the members present and voting.

“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 herein the terms and expressions used in the Standing Orders are to have the meaning given to them in the Act and Regulations.

#### **1.4 Repeal**

~~The Standing Orders of the [insert name of local government] published in the Government Gazette on [insert day/month/year of gazetta(s)] are repealed.~~

#### **Provisions of the Act and Marginal Notes**

Provisions of the Act and Regulations have been included in this document, in appropriate places, boxed and colour hachured. Also marginal notes are located against the right hand margin and contain references to equivalent or related provisions in the Act and Regulations or within the standing orders.

These insertions are not an official part of the standing orders but are included to give a fuller picture of the written law governing proceedings, or as an aid to interpretation.

In the hachured boxes and in the marginal notes: -

[or Chairman] is inserted to equate to Mayor or President;

“S” denotes a section of the Act;

“R” denotes a regulation of the (Administration) Regulations; and

a number without a prefix is a reference to a clause of the standing orders.

#### **Part 2 - Calling Meetings**

S.5.4 An ordinary or a special meeting of a Council is to be held -

(a) if called for by either -

(i) the mayor or president [or chairman]; or

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

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

or

(b) if so decided by the Council.

#### **2.1 Calling Committee Meetings**

A meeting of a committee is to be held -

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

## **2.2 Notice of Special Council Meetings**

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

- (1) Subject to subclause (2), the CEO is to convene a special meeting of the Council by giving each Council member at least 72 hours' notice of the date, time, place and purpose of the meeting.
- (2) Where there is a need to meet urgently, in the opinion of the **Chairman**, the CEO may give a lesser period of notice of a special meeting than mentioned in subclause (1).

## **Part 3 - Business of the Meeting**

### **3.1 Business to be Specified on Notice Paper**

- (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 person presiding or a decision of 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) No business is to be transacted at a committee meeting other than that specified in the agenda or given in the notice as the purpose of the meeting, without the approval of the Presiding Member or a decision of the committee.
- (4) No business is to be transacted at an adjourned meeting of the Council or a committee other than that -
  - (a) specified in the notice 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 have precedence at that ordinary meeting.

6.2, 12.3,  
15.9,  
16.1

### 3.2 Order of Business

- (1) Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows -
  - (a) Official opening
  - (b) Public question time
  - (c) Apologies and leave of absence
  - (d) Petitions
  - (e) Confirmation of minutes
  - (f) Announcements by the person presiding without discussion
  - (g) Matters for which meeting may be closed
  - (h) Reports of committees and officers
  - (i) Elected member's motions of which previous notice has been given
  - (j) Questions by elected members of which due notice has been given
  - (k) Urgent business approved by the person presiding or by decision of the Council
  - (l) Matters behind closed doors
  - (m) Closure
- (2) Unless otherwise decided by the members present, the order of business at any special meeting of the Council or at a committee meeting is to be the order in which that business stands in the agenda of the meeting.
- (3) Notwithstanding subclauses (1) and (2) in the order of business for any meeting of the Council or a committee, the provisions of the Act and Regulations relating to the time at which public question time is to be held are to be observed.
- (4) Notwithstanding subclause (1), the CEO may include on the agenda of a Council or committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriately decided, by that meeting.

### 3.3 Public Question Time

- S.5.24 Time is to be allocated for questions to be raised by members of the public and  
& R5 responded to at -
- (a) every ordinary meeting of a Council;
  - (b) every special meeting of a Council;
  - (c) every meeting of a committee to which the local government has delegated a power or duty.



- R 6 (1) The minimum time to be allocated for the asking of and responding to questions raised by members of the public at ordinary meetings of Councils and meetings referred to in regulation 5 is 15 minutes.
- (2) Once all the questions raised by members of the public have been asked and responded to at a meeting referred to in subregulation (1), nothing in these regulations prevents the unused part of the minimum question time period from being used for other matters.
- R 7 (1) Procedures for the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) are to be determined -
- (a) by the person presiding at the meeting; or
  - (b) in the case where the majority of members of the Council or committee present at the meeting disagree with the person presiding, by the majority of those members, having regard to the requirements of subregulations (2) and (3).
- (2) The time allocated to the asking of and responding to questions raised by members of the public at a meeting referred to in regulation 6(1) is to precede the discussion of any matter that requires a decision to be made by the Council or the committee, as the case may be.
- (3) Each member of the public who wishes to ask a question at a meeting referred to in regulation 6(1) is to be given an equal and fair opportunity to ask the question and receive a response.
- (4) Nothing in subregulation (3) requires -
- (a) a Council to answer a question that does not relate to a matter affecting the local government
  - (b) a Council at a special meeting to answer a question that does not relate to the purpose of the meeting; or
  - (c) a committee to answer a question that does not relate to a function of the committee.

- (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 or committee for later response.
- (3) When a question is taken on notice under sub-clause (2) a response is to be given to the member of the public in writing by the CEO, and a copy is to be included in the agenda of the next meeting of the Council or committee as the case requires.

**Disqualification for failure to attend meetings**

- S 2.25 (1) A Council may, by resolution, grant leave of absence to a member.
- (2) Leave is not to be granted to a member in respect of more than 6 consecutive ordinary meetings of the Council without the approval of the Minister.
  - (3) The granting of the leave is to be recorded in the minutes of the meeting.
  - (4) A member who is absent, without first obtaining leave of the Council, throughout 3 consecutive ordinary meetings of the Council is disqualified from continuing his or her membership of the Council.
  - (5) .....

### 3.4 Petitions

A petition, in order to be effective, is to -

- (a) be addressed to the **Chairman**;
- (b) be made by electors of the district;
- (c) state the request on each page of the petition;
- (d) contain the names, addresses and signatures of the electors making the request, and the date each elector signed;
- (e) contain a summary of the reasons for the request;
- (f) state the name of the person upon whom, and an address at which, notice to the petitioners can be given;
- (g) be in the form prescribed by the Act and Local Government (Constitution) Regulations 1996 if it is -
  - (i) a proposal to change the method of filling the office of **Chairman**;
  - (ii) a proposal to create a new district or the boundaries of the Local Government;
  - (iii) a request for a poll on a recommended amalgamation;
  - (iv) a submission about changes to wards, the name of a district or ward or the number of councillors for a district or ward.

### 3.5 Confirmation of Minutes

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

- (1) When minutes of a meeting are submitted to an ordinary meeting of the Council or committee for confirmation, if a member is dissatisfied with the accuracy of the minutes, then he or she is to -
  - (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.
- (2) Discussion of any minutes, other than discussion as to their accuracy as a record of the proceedings, is not permitted.

### **3.6 Announcements by the Person Presiding Without Discussion**

- (1) At any meeting of the Council or a committee the person presiding may announce or raise any matter of interest or relevance to the business of the Council or committee, or propose a change to the order of business.
- (2) Any member may move that a change in order of business proposed by the person presiding not be accepted and if carried by a majority of members present, the proposed change in order is not to take place.

### **3.7 Matters for which Meeting May be Closed**

For the convenience of members of the public, the Council or committee may identify by decision, early in the meeting, any matter on the agenda of the meeting to be discussed behind closed doors, and that matter is to be deferred for consideration as the last item of the meeting. S.5.23(2),  
4.2

- S 5.23 (1) Subject to subsection (2), the following are to be open to members of the public-
- (a) all Council meetings; and
  - (b) all meetings of any committee to which a local government power or duty has been delegated.
- (2) If a meeting is being held by a Council or by a committee referred to in subsection (1) (b), the Council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following -
- (a) a matter affecting an employee or employees;
  - (b) the personal affairs of any person;
  - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
  - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
  - (e) a matter that if disclosed, would reveal -
    - (i) a trade secret;

- (ii) information that has a commercial value to a person; or
    - (iii) information about the business, professional, commercial or financial affairs of a person,  
where the trade secret or information is held by, or is about, a person other than the local government;
  - (f) a matter that if disclosed, could be reasonably expected to -
    - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
    - (ii) endanger the security of the local government's property; or
    - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
  - (g) information which is the subject of a direction given under section 23 (1a) of the Parliamentary Commissioner Act 1971; and
  - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

### **3.8 Correspondence**

- (1) The CEO is to use discretion in deciding what correspondence to place before the Council or a committee.
- (2) Correspondence may be placed before the Council or a committee in the form of a precis, provided all relevant and material facts are contained in the precis.
- (3) Where correspondence contains a matter to be decided by the Council or committee, the CEO is, if the circumstances permit, to recommend a course of action to the Council or committee, or state the alternative courses of action available.

### **3.9 Motions of which Previous Notice has been Given**

- (1) Unless the Act, Regulations or these Standing Orders otherwise provide, a member may raise at a meeting such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the CEO.
- (2) A notice of motion under subclause (1) is to be given at least four (4) clear working days before the meeting at which the motion is moved.
- (3) A notice of motion is to relate to the good government of persons in the district.
- (4) The CEO -
  - (a) with the concurrence of the **Chairman**, may exclude from the notice paper any notice of motion deemed to be out of order; or
  - (b) may on his or her own initiative make such amendments to the form but not the substance thereof as will bring the notice of motion into due form; and

- (c) may under his or her name provide relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, budget and law.
- (5) No notice of motion is to be out of order because the policy involved is considered to be objectionable.
- (6) A motion of which notice has been given is to lapse unless -
  - (a) the member who gave notice thereof, or some other member authorised by him or her 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.
- (7) If a notice of motion is given and lapses in the circumstances referred to in subclause (6)(a), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.

### **3.10 Questions by Members of which Due Notice has been given.**

- (1) A question on notice is to be given by a member in writing to the CEO at least four (4) clear working days before the meeting at which it is raised.
- (2) If the question referred to in subclause (1) is in order, the answer is, so far as is practicable, to be included in written form in the agenda of the meeting, or otherwise tabled at that meeting.
- (3) Every question and answer is to be submitted as briefly and concisely as possible and no discussion is to be allowed thereon, unless with the consent of the person presiding.

### **3.11 Urgent Business Approved By the Person Presiding or by Decision**

In cases of extreme urgency or other special circumstance, matters may, with the consent of the person presiding, or by decision of the members present, be raised without notice and decided by the meeting.

### **3.12 Deputations**

- (1) A deputation wishing to be received by the Council or a committee is to apply in writing to the CEO who is to forward the written request to the **Chairman**, or the Presiding Member as the case may be.
- (2) The **Chairman** if the request is to attend a Council meeting, or the Presiding Member of the committee, if the request is to attend a meeting of a committee, may either approve the request, in which event the CEO is to invite the deputation to attend a meeting of the Council or committee as the case may be, or may instruct the CEO to refer the request to the Council or committee to decide by simple majority whether or not to receive the deputation.

- (3) A deputation invited to attend a Council or committee meeting -
  - (a) is not to exceed five persons, only two of whom may address the Council or committee, although others may respond to specific questions from the members; and
  - (b) is not to address the Council or committee for a period exceeding 15 minutes without the agreement of the Council or the committee as the case requires.
- (4) Any matter which is the subject of a deputation to the Council or a committee is not to be decided by the Council or that committee until the deputation has completed its presentation.

#### **Part 4 - Public Access to Agenda Material**

##### **4.1 Inspection Entitlement**

Members of the public have access to agenda material in the terms set out in Regulation 14 of the Regulations.

##### **4.2 Confidentiality of Information Withheld**

- (1) Information withheld by the CEO from members of the public under Regulation 14.2, of the Regulations, is to be -
  - (a) identified in the agenda of a Council or committee meeting under the item “Matters for which meeting may be closed”; and
  - (b) marked “confidential” in the agenda.
- (2) A member of the Council or a committee or an employee of the Council in receipt of confidential information is not to disclose such information to any person other than a member of the Council or the committee or an employee of the Council to the extent necessary for the purpose of carrying out his or her duties.

3.7

Penalty \$5,000

#### **Part 5 - Disclosure of Financial Interests**

S.5.60 to S.5.64 For what constitutes a “financial interest”.
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S.5.65 (1) A member who has an interest in any matter to be discussed at a Council or committee meeting that will be attended by the member must disclose the nature of the interest -

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

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

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

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

(3) .....

S.5.67 A member who makes a disclosure under section 5.65 must not -

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

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

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

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

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

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

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

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

(2) .....

(3) .....

## 5.1 Separation of Committee Recommendations

Where a member of the Council has disclosed an interest in a matter, at a committee meeting, and the matter is contained in the recommendations of the committee to an ordinary meeting of Council or to another committee meeting that will be attended by the member, the recommendation concerned is to be separated on the agenda of that ordinary meeting or other committee meeting, from other recommendations of the committee, to enable the member concerned to declare the interest and leave the room prior to consideration of that matter only.

## 5.2 Member with an Interest may ask to be Present

- (1) Where a member has disclosed the nature of his or her interest in a matter, immediately before the matter is considered by the meeting, he or she may, without disclosing the extent of the interest, request that he or she be allowed to be present during any discussion or decision making procedure related to the matter. S.5.68
- (2) If such a request is made, the member is to leave the room while the request is considered. If the request is allowed by the members, the member may return to the meeting and be present during the discussion or decision making procedure related to that matter, but is not permitted to participate in any way.

## 5.3 Member with an Interest may ask Permission to Participate

- (1) A member who discloses both the nature and extent of an interest, may request permission to take part in the consideration or discussion of the matter, or to vote on the matter. S.5.68
- (2) If such a request is made, the member is to leave the room while the request is considered. If it is decided at a meeting that a member who has disclosed both the nature and extent of an interest in a matter, be permitted to participate in the consideration and discussion of the matter or to vote on the matter, or both, then the member may return to participate to the extent permitted.

## 5.4 Invitation to Return to Provide Information

Where a member has disclosed an interest in a matter and has left the room in accordance with the Act, the meeting may resolve to invite the member to return to provide



information in respect of the matter or in respect of the member's interest in the matter and in such case the member is to withdraw after providing the information.

## 5.5 Disclosures by Employees

- (1) If an employee within the meaning of section 5.70 of the Act, presents a written report to a meeting, on a matter in which the employee has an interest, the nature of the interest is to be disclosed at the commencement of the report. S.5.70
- (2) If such an employee makes a verbal report to a meeting on a matter in which the employee has an interest, the employee is to preface his or her advice to the meeting by verbally disclosing the nature of the interest.

## Part 6 - Quorum

### S 5.19 Quorum for meetings

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

#### Procedure If No Quorum

- R8 If a quorum has not been established within the 30 minutes after a Council or committee meeting is due to begin then the meeting can be adjourned -
- (a) in the case of the Council, by the mayor or president [or chairman], or if the mayor or president [or chairman] is not present at the meeting, by the deputy mayor or deputy president [or chairman];
  - (b) in the case of a committee by the presiding member of the committee or if the presiding member is not present at the meeting, by the deputy presiding member;
  - (c) if no person referred to in paragraph (a) or (b), as the case requires, is present at the meeting, by the majority of members present;
  - (d) if only one member is present, by that member; or
  - (e) if no member is present or if no member other than the CEO is present, by the CEO or a person authorised by the CEO.

## 6.1 Quorum to be Present

- (1) The Council or a committee is not to transact business at a meeting unless a quorum is present.

## 6.2 Loss of Quorum During a Meeting

- (1) If at any time during the course of a meeting of the Council or a committee a quorum is not present - 3.1(4), 16.5

- (a) in relation to a particular matter because of a member or members leaving the meeting after disclosing a financial interest,  
the matter is adjourned until either -
    - (i) a quorum is present to decide the matter; or
    - (ii) the Minister allows a disclosing member or members to preside at the meeting or to participate in discussions or the decision making procedures relating to the matter under section 5.69 of the Act; or
  - (b) because of a member or members leaving the meeting for reasons other than disclosure of a financial interest, the person presiding is to suspend the proceedings of the meeting for a period of five minutes, and if a quorum is not present at the end of that time, the meeting is deemed to have been adjourned and the person presiding is to reschedule it to some future time or date having regard to the period of notice which needs to be given under the Act, Regulations, or the Standing Orders when calling a meeting of that type.
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1) (b) -
- (a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and 3.1(4),  
16.5
  - (b) in the case of a Council meeting
    - (i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
    - (ii) the provisions of clause 9.5 apply when the debate is resumed.

## Part 7 - Keeping of Minutes

### 7.1 Content of Minutes

In addition to the matters contained in Regulation 11 of the Regulations, the content of minutes of a meeting of the Council or a committee is to include, where an application for approval is declined or the authorisation of a licence, permit, or certificate is otherwise withheld or cancelled, the reasons for the decision. S.5.25(f)  
, R11,  
3.5

### 7.2 Preservation of Minutes

Minutes including the agenda of each Council and committee meeting are to be kept as a permanent record of the activities of the local government and are to be transferred to the Public Records Office, being a directorate of the Library and Information Service of Western Australia, in accordance with the retention and disposal policy determined by that office from time to time.

**Public inspection of unconfirmed minutes of Council or committee meetings**

R 13 A local government is to ensure that unconfirmed minutes of each Council and committee meeting are available for inspection by members of the public -

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

**Part 8 - Conduct of Persons at Council and Committee Meetings**

**8.1 Official Titles to be Used**

Members of the Council are to speak of each other in the Council or committee by their respective titles of **Chairman** or councillor. Members of the Council, in speaking of or addressing employees, are to designate them by their respective official titles.

**8.2 Members to Occupy Own Seats**

At the first meeting held after each ordinary elections day, the CEO is to allot by random draw, position~~s~~ at the Council table to ~~each-the~~ councillors representatives from each participant Council. The councillor~~s~~ are ~~is~~ to occupy those positions when present at meetings of the Council until such time as there is a call by a majority of councillors for a re-allotment of positions.

**8.3 Leaving Meetings**

During the course of a meeting of the Council or a committee no member is to enter or leave the meeting without first advising the person presiding, in order to facilitate the recording in the minutes of the time of entry or departure.

**8.4 Adverse Reflection**

- (1) No member of the Council or a committee is to reflect adversely upon a decision of the Council or committee except on a motion that the decision be revoked or changed. 15.2
- (2) No member of the Council or a committee is to use offensive or objectionable expressions in reference to any member, employee of the Council, or any other person. Penalty \$1,000
- (3) If a member of the Council or committee specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the person presiding is to cause the words used to be taken down and read to the meeting for verification and to then be recorded in the minutes.

**8.5 Recording of Proceedings**

- (1) No person is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without the written permission of the Council.
- (2) Subclause (1) does not apply if the record is taken by or at the direction of the CEO, with the permission of the Council or committee.

#### **8.6 Prevention of Disturbance**

- (1) Any member of the public addressing the Council or a committee is to extend due courtesy and respect to the Council or committee and the processes under which they operate and must take direction from the person presiding whenever called upon to do so.  
Penalty \$1,000
- (2) No person observing a meeting, is to create a disturbance at a meeting, by interrupting or interfering with the proceedings, whether by expressing approval or dissent, by conversing or by any other means.  
Penalty \$1,000

#### **8.7 Distinguished Visitors**

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

### **Part 9 - Conduct of Members During Debate**

#### **9.1 Members to Rise**

Every member of the Council wishing to speak is to indicate by show of hands or other method agreed upon by the Council. When invited by the person presiding to speak, members are to rise and address the Council through the person presiding, provided that where any member of the Council is unable to stand by reason of sickness or disability he or she may sit while speaking.

#### **9.2 Priority**

In the event of two or more members of the Council or a committee wishing to speak at the same time, the person presiding is to decide which member is entitled to be heard first. The decision is not open to discussion or dissent.

#### **9.3 The Person Presiding to Take Part in Debates**

Unless otherwise prohibited by the Act, and subject to compliance with procedures for the debate of motions contained in these Standing Orders, the person presiding may take part in a discussion of any matter before the Council or committee as the case may be.

#### **9.4 Relevance**

Every member of the Council or a committee is to restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.

#### **9.5 Limitation of Number of Speeches**

No member of the Council is to address the Council more than once on any motion or amendment before the Council except the mover of a substantive motion, in reply, or to a point of order, or in explanation.

10.16  
12.7(2  
)  
15.4

#### **9.6 Limitation of Duration of Speeches**

All addresses are to be limited to a maximum of five minutes. Extension of time is permissible only with the agreement of a simple majority of members present.

#### **9.7 Members Not to Speak After Conclusion of Debate**

No member of the Council or a committee is to speak to any question after it has been put by the person presiding.

#### **9.8 Members Not to Interrupt**

No member of the Council or a committee is to interrupt another member of the Council or committee whilst speaking unless:

6.1,  
15.3  
15.4

- (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 10.16; or
- (d) to move a motion under clause 11(1)(e).

#### **9.9 Re-Opening Discussion on Decisions**

No member of the Council or a committee is to re-open discussion on any decision of the Council or committee, except for the purpose of moving that the decision be revoked or changed.

### **Part 10 - Procedures for Debate of Motions**

#### **10.1 Motions To be Stated**

Any member of the Council or a committee who moves a substantive motion or amendment to a substantive motion is to state the substance of the motion before speaking to it.

#### **10.2 Motions to be Supported**

No motion or amendment to a substantive motion is open to debate until it has been seconded, or, in the case of a motion to revoke or change the decision made at a Council or a committee meeting, unless the motion has the support required under Regulation 10 of the Regulations.

#### **10.3 Unopposed Business**

- (1) Upon a motion being moved and seconded, the person presiding may ask the meeting if any member opposes it.
- (2) If no member signifies opposition to the motion the person presiding may declare the motion in subclause (1) carried without debate and without taking a vote on it.
- (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 signifies opposition to a motion the motion is to be dealt with according to this Part.
- (5) This clause does not apply to any motion or decision to revoke or change a decision which has been made at a Council or committee meeting.

#### **10.4 Only One Substantive Motion Considered**

When a substantive motion is under debate at any meeting of the Council or a committee, no further substantive motion is to be accepted.

#### **10.5 Breaking Down of Complex Questions**

The person presiding may order a complex question to be broken down and put in the form of several motions, which are to be put in sequence.

#### **10.6 Order of Call in Debate**

The person presiding is to call speakers to a substantive motion in the following order:

- (a) The mover to state the motion;
- (b) A seconder to the motion;
- (c) The mover to speak to the motion;
- (d) The seconder to speak to the motion;
- (e) A speaker against the motion;
- (f) A speaker for the motion;
- (g) Other speakers against and for the motion, alternating in view, if any;

- (h) Mover takes right of reply which closes debate.

#### **10.7 Limit of Debate**

The person presiding 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.

#### **10.8 Member May Require Questions to be Read**

Any member may require the question or matter under discussion to be read at any time during a debate, but not so as to interrupt any other member whilst speaking.

#### **10.9 Consent of Secunder Required to Accept Alteration of Wording**

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 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 or lost. 10.13

#### **10.11 Amendments Must Not Negate Original Motion**

No amendment to a motion can be moved which negates the original motion or the intent of the original motion.

#### **10.12 Mover of Motion Not to Speak on Amendment**

On an amendment being moved, any member may speak to the amendment, provided that if the person who moved the substantive motion does choose to speak to the amendment, the right of reply is forfeited by that person.

#### **10.13 Substantive Motion**

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.

#### **10.14 Withdrawal of Motion and Amendments**

Council or a committee may, without debate, grant leave to withdraw a motion or amendment upon request of the mover of the motion or amendment and with the approval of

the seconder provided that there is no voice expressed to the contrary view by any member, in which case discussion on the motion or amendment is to continue.

#### **10.15 Limitation of Withdrawal**

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

#### **10.16 Personal Explanation**

No member is to speak at any meeting of the Council or a committee, except upon the matter before the Council or committee, unless it is to make a personal explanation. Any member of the Council or committee who is permitted to speak under these circumstances is to confine the observations to a succinct statement relating to a specific part of the former speech which may have been misunderstood. When a member of the Council or committee rises to explain, no reference is to be made to matters unnecessary for that purpose.

#### **10.17 Personal Explanation - When Heard**

A member of the Council or a committee wishing to make a personal explanation of matters referred to by any member of the Council or committee then speaking, is entitled to be heard immediately, if the member of the Council or committee then speaking consents at the time, but if the member of the Council or committee who is speaking declines to give way, the explanation is to be offered at the conclusion of that speech.

#### **10.18 Ruling on Questions of Personal Explanation**

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

#### **10.19 Right of Reply**

- (1) The mover of a substantive motion has the right of reply. After the mover of the substantive motion has commenced the reply, no other member is to speak on the question.
- (2) The right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.

#### **10.20 Right of Reply Provisions**

The right of reply is governed by the following provisions:

- (a) if no amendment is moved to the substantive motion, the mover may reply at the conclusion of the discussion on the motion;



- (b) if an amendment is moved to the substantive motion the mover of the substantive motion is to take the right of reply at the conclusion of the vote on any amendments;
- (c) the mover of any amendment does not have a right of reply;
- (d) once the right of reply has been taken, there can be no further discussion, nor any other amendment and the original motion or the original motion as amended is immediately put to the vote.

## **Part 11 - Procedural Motions**

### **11.1 Permissible Procedural Motions**

In addition to proposing a properly worded amendment to a substantive motion, it is permissible for a member to move the following procedural motions:

- (a) that the Council (or committee) proceed to the next business;
- (b) that the question be adjourned;
- (c) that the Council (or committee) now adjourn;
- (d) that the question be now put;
- (e) that the member be no longer heard;
- (f) that the ruling of the person presiding be disagreed with;
- (g) that the Council (or committee) meet behind closed doors, if the meeting or part of the meeting to which the motion relates is a matter in respect of which the meeting may be closed to members of the public under section 5.23 of the Act.

### **11.2 No Debate on Procedural Motions**

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

### **11.3 Procedural Motions - Closing Debate - Who May Move**

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

### **11.4 Procedural Motions - Right of Reply on Substantive Motion**

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

## **Part 12 - Effect of Procedural Motions**

### **12.1 Council (or Committee) to Proceed to the Next Business - Effect of Motion**

The motion “that the Council (or committee) proceed to the next business”, if carried, causes the debate to cease immediately and for the Council (or committee) to move to the next business of the meeting. No decision will be made on the substantive motion being discussed, nor is there any requirement for the matter to be again raised for consideration.

### **12.2 Question to be Adjourned - Effect of Motion**

- (1) The motion “that the question be adjourned”, if carried, causes all debate on the substantive motion or amendment to cease but to continue at a time stated in the motion.
- (2) If the motion is carried at a meeting of the Council -
  - (a) the names of members who have spoken on the matter are to be recorded in the minutes; and
  - (b) the provisions of clause 9.5 apply when the debate is resumed.

### **12.3 Council (or Committee) to Now Adjourn - Effect of Motion**

- (1) The motion “that the Council (or committee) now adjourn”, if carried, causes the meeting to stand adjourned until it is re-opened at which time the meeting continues from the point at which it was adjourned, unless the person presiding or a simple majority of members upon vote, determine otherwise. 3.1(4)  
16.1,  
16.2,  
16.3,  
16.4,  
16.5
- (2) Where debate on a motion is interrupted by an adjournment under subclause (1) -
  - (a) the debate is to be resumed at the next meeting at the point where it was so interrupted; and
  - (b) in the case of a Council meeting
    - (i) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
    - (ii) the provisions of clause 9.5 apply when the debate is resumed.

### **12.4 Question to be Put - Effect of Motion**

- (1) The motion “that the question be now put”, if carried during discussion of a substantive motion without amendment, causes the person presiding to offer the right of reply and then immediately put the matter under consideration without further debate.

- (2) This motion, if carried during discussion of an amendment, causes the person presiding to put the amendment to the vote without further debate.
- (3) This motion, if lost, causes debate to continue.

#### **12.5 Member to be No Longer Heard - Effect of Motion**

The motion “that the member be no longer heard”, if carried, causes the person presiding to not allow the speaker against whom the motion has been moved to speak to the current substantive motion or any amendment relating to it, except to exercise the right of reply if the person is the mover of the substantive motion.

#### **12.6 Ruling of the Person Presiding Disagreed With - Effect of Motion**

The motion “that the ruling of the person presiding be disagreed with”, if carried, causes the ruling of the person presiding about which this motion was moved, to have no effect and for the meeting to proceed accordingly.

#### **12.7 Council (or Committee) to Meet Behind Closed Doors - Effect of Motion**

- (1) Subject to any deferral under clause 3.7 or other decision of the Council or committee, this motion, if carried, causes the general public and any officer or employee the Council or committee determines, to leave the room.
- (2) While a decision made under this clause is in force the operation of clause 9.5 limiting the number of speeches a member of the Council may make, is suspended unless the Council decides otherwise.
- (3) Upon the public again being admitted to the meeting the person presiding, unless the Council or committee decides otherwise, is to cause the motions passed by the Council or committee whilst it was proceeding behind closed doors to be read out including the vote of a member or members to be recorded in the minutes under section 5.21 of the Act.
- (4) A person who is a Council member, a committee member, or an employee is not to publish, or make public any of the discussion taking place on a matter discussed behind closed doors, but this prohibition does not extend to the actual decision made as a result of such discussion and other information properly recorded in the minutes.  
Penalty \$5,000

### **Part 13 - Making Decisions**

<b>Decisions of Council and committees</b>
--

- S 5.20 (1) A decision of a Council does not have effect unless it has been made by a simple majority or, if another kind of majority is required under any provision of this Act or has been prescribed by regulations or a local law for the particular kind of decision, by that kind of majority.
- (2) A decision of a committee does not have effect unless it has been made by a simple majority or, if another kind of majority has been prescribed by regulations or a local law for the particular kind of decision, by that kind of majority.
- (3) .....

### **Voting**

- S 5.21 (1) Each Council member and each member of a committee who is present at a meeting of the Council or committee is entitled to one vote.
- (2) Subject to section 5.67, each Council member and each member of a committee to which a local government power or duty has been delegated who is present at a meeting of the Council or committee is to vote.
- (3) If the votes of members present at a Council or a committee meeting are equally divided, the person presiding may cast a second vote.
- (4) If a member of a Council or a committee specifically requests that there be recorded -
- (a) his or her vote; or
  - (b) the vote of all members present,
- on a matter voted on at a meeting of the Council or the committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.

- R9 Voting at a Council or committee meeting is to be conducted so that no voter's vote is secret.

### **Revoking or changing decisions made at council or committee meetings.**

- R10 (1) If a decision has been made at a Council or a committee meeting then any motion to revoke or change the decision must be supported -
- (a) in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or
  - (b) in any other case, by at least 1/3 of the number of offices (whether vacant or not) of members of the Council or committee,
- inclusive of the mover.

- (2) If a decision has been made at a Council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made -
  - (a) in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or
  - (b) in any other case, by an absolute majority.
- (3) This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.

### **13.1 Question - When Put**

When the debate upon any question is concluded and the right of reply has been exercised the person presiding shall immediately put the question to the Council or the committee, and, if so desired by any member of the Council or committee, shall again state it.

### **13.2 Question - Method of Putting**

If a decision of the Council or a committee is unclear or in doubt, the person presiding shall put the motion or amendment as often as necessary to determine the decision from a show of hands or other method agreed upon so that no voter's vote is secret, before declaring the decision.

## **Part 14 - Implementing Decisions**

### **14.1 Implementation of a Decision**

- (1) If a notice of motion to revoke or change a decision of the Council or a committee is received before any action has been taken to implement that decision, then no steps are to be taken to implement or give effect to that decision until such time as the motion of revocation or change has been dealt with, except that -
  - (a) if a notice of motion to revoke or change a decision of the Council or a committee is given during the same meeting at which the decision was made, the notice of motion is of no effect unless the number of members required to support the motion under Regulation 10 of the Regulations indicate their support for the notice of motion at that meeting; and
  - (b) if a notice of motion to revoke or change a decision of the Council or a committee is received after the closure of the meeting at which the decision was made, implementation of the decision is not to be withheld unless the notice of motion

has the support in writing, of the number of members required to support the motion under Regulation 10 of the Regulations.

- (2) Implementation of a decision is only to be withheld under sub-clause (1) if the effect of the change proposed in a notice of motion would be that the decision would be revoked or would become substantially different.
- (3) The Council or a committee shall not vote on a motion to revoke or change a decision of the Council or committee whether the motion of revocation or change is moved with or without notice, if at the time the motion is moved or notice is given:-
  - (a) action has been taken to implement the decision; or
  - (b) where the decision concerns the issue of an approval or the authorisation of a licence, permit or certificate, and where that approval or authorisation of a licence, permit or certificate has been put into effect by the Council in writing to the applicant or the applicant's agent by an employee of the Council authorised to do so;

without having considered a statement of impact prepared by or at the direction of the CEO of the legal and financial consequences of the proposed revocation or change.

## **Part 15 - Preserving Order**

### **15.1 The Person Presiding to Preserve Order**

The person presiding is to preserve order, and may call any member or other person in attendance to order, whenever, in his or her opinion, there is cause for so doing.

8.6

### **15.2 Demand for Withdrawal**

A member at a meeting of the Council or a committee may be required by the person presiding, or by a decision of the Council or committee, to apologise and unreservedly withdraw any expression which is considered to reflect offensively on another member or an employee, and if the member declines or neglects to do so, the person presiding may refuse to hear the member further upon the matter then under discussion and call upon the next speaker.

8.4

### **15.3 Points of Order - When to Raise - Procedure**

Upon a matter of order arising during the progress of a debate, any member may raise a point of order including interrupting the speaker. Any member who is speaking when a point of order is raised, is to immediately stop speaking and be seated while the person presiding listens to the point of order.

9.8

### **15.4 Points of Order - When Valid**

The following are to be recognised as valid points of order:

- (a) that the discussion is of a matter not before the Council or committee;
- (b) that offensive or insulting language is being used;
- (c) drawing attention to the violation of any written law, or policy of the Local Government, provided that the member making the point of order states the written law or policy believed to be breached.

#### **15.5 Points Of Order - Ruling**

The person presiding is to give a decision on any point of order which is raised by either upholding or rejecting the point of order.

#### **15.6 Points of Order - Ruling Conclusive, Unless Dissent Motion is Moved**

The ruling of the person presiding upon any question of order is final, unless a majority of the members support a motion of dissent with the ruling.

#### **15.7 Points of Order Take Precedence**

Notwithstanding anything contained in these Standing Orders to the contrary, all points of order take precedence over any other discussion and until decided, suspend the consideration and decision of every other matter.

#### **15.8 Precedence of Person Presiding**

- (1) When the person presiding rises during the progress of a debate, any member of the Council or committee then speaking, or offering to speak, is to immediately sit down and every member of the Council or committee present shall preserve strict silence so that the person presiding may be heard without interruption.

Penalty \$500

- (2) Subclause (1) is not to be used by the person presiding to exercise the right provided in clause 9.3, but to preserve order.

#### **15.9 Right of the Person Presiding to Adjourn Without Explanation to Regain Order**

- (1) If a meeting ceases to operate in an orderly manner, the person presiding may use discretion to adjourn the meeting for a period of up to fifteen minutes without explanation, for the purpose of regaining order. Upon resumption, debate is to continue at the point at which the meeting was adjourned. If, at any one meeting, the person presiding has cause to further adjourn the meeting, such adjournment may be to a later time on the same day or to any other day.

3.1(4)  
)  
16.5

- (2) Where debate of a motion is interrupted by an adjournment under sub-clause (1), in the case of a Council meeting -
- (a) the names of members who have spoken in the matter prior to the adjournment are to be recorded; and
  - (b) the provisions of clause 9.5 apply when the debate is resumed.

## **Part 16 - Adjournment of Meeting**

### **16.1 Meeting May be Adjourned**

The Council or a committee may decide to adjourn any meeting to a later time on the same day, or to any other day. 3.1(4)  
12.3

### **16.2 Limit to Moving Adjournment**

No member is to move or second more than one motion of adjournment during the same sitting of the Council or committee. 12.3

### **16.3 Unopposed Business - Motion for Adjournment**

On a motion for the adjournment of the Council or committee, the person presiding, before putting the motion, may seek leave of the Council or committee to proceed to the transaction of unopposed business. 12.3

### **16.4 Withdrawal of Motion for Adjournment**

A motion or an amendment relating to the adjournment of the Council or a committee may be withdrawn by the mover, with the consent of the seconder, except that if any member objects to the withdrawal, debate of the motion is to continue. 12.3

### **16.5 Time To Which Adjourned**

The time to which a meeting is adjourned for want of a quorum, by the person presiding to regain order, or by decision of the Council, may be to a specified hour on a particular day or to a time which coincides with the conclusion of another meeting or event on a particular day. 3.1(4)  
6.2, 12.3,  
15.9,  
16.1

## **Part 17 - Committees of the Council**

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



### 17.1 Establishment and Appointment of Committees

A committee is not to be established except on a motion setting out the proposed functions of the committee and either -

S.5.8  
S.5.9  
S.5.10

- (a) the names of the Council members, employees and other persons to be appointed to the committee; or
- (b) the number of Council members, employees and other persons to be appointed to the committee and a provision that they be appointed by a separate motion.

### 17.2 Appointment of Deputy Committee Members

- (1) The Council may appoint one or more persons to be the deputy or deputies, as the case may be, to act on behalf of a member of a committee whenever that member is unable to be present at a meeting thereof and where two or more deputies are so appointed they are to have seniority in the order determined by the Council.
- (2) Where a member of a committee does not attend a meeting thereof a deputy of that member, selected according to seniority, is entitled to attend that meeting in place of the member and act for the member, and while so acting has all the powers of that member.

- S.5.12 (1) The members of a committee are to elect a presiding member from amongst themselves .....
- (2) The members of a committee may elect a deputy presiding member from amongst themselves .....

### 17.3 Presentation of Committee Reports

When the report or recommendations of a committee are placed before the Council, the adoption of recommendations of the committee is to be moved by -

- (a) the Presiding Member of the Committee if the Presiding Member is a Council member and is in attendance; or
- (b) a Council member who is a member of the committee, if the Presiding Member of the Committee is not a Council member, or is absent; or
- (c) otherwise, by a Council member who is not a member of the committee.

### 17.4 Reports of Committees - Questions

When a recommendation of any committee is submitted for adoption by the Council, any member of the Council may direct questions directly relating to the recommendation through the person presiding to the Presiding Member or to any member of the committee in attendance.

### 17.5 Permissible Motions on Recommendation From Committee

A recommendation made by or contained in the minutes of a committee may be adopted by the Council without amendment or modification, failing which, it may be -

- (a) rejected by the Council and replaced by an alternative decision; or
- (b) amended or modified and adopted with such amendment or modification; or
- (c) referred back to the committee for further consideration.

#### **17.6 Standing Orders Apply to Committees**

Where not otherwise specifically provided, these Standing Orders apply generally to the proceedings of committees, except that the following Standing Orders do not apply to the meeting of a committee -

- (a) Clause 8.2, in regard to seating;
- (b) Clause 9.1, in respect of the requirement to rise;
- (c) Clause 9.5, limitation on the number of speeches.

### **Part 18 - Administrative Matters**

#### **18.1 Suspension of Standing Orders**

- (1) The Council or a committee may decide, by simple majority vote, to suspend temporarily one or more of the Standing Orders.
- (2) The mover of a motion to suspend temporarily any one or more of the Standing Orders is to state the clause or clauses to be suspended, and the purpose of the suspension.

#### **18.2 Cases not Provided for in Standing Orders**

The person presiding is to decide questions of order, procedure, debate, or otherwise in cases where these Standing Orders and the Act and Regulations are silent. The decision of the person presiding in these cases is final, except where a motion is moved and carried under clause 11.1 (f).

### **Part 19 - Common Seal**

#### **19.1 The Council's Common Seal**

- (1) 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.
- (2) The common seal of the Local Government may only be used on the authority of the Council given either generally or specifically and every document to which the seal is affixed must be signed by the **Chairman** and the CEO or a senior employee authorised by him or her.
- (3) The common seal of the local government is to be affixed to any local law which is made by the local government.

- (4) The CEO is to record in a register each date on which the common seal of the Local Government was affixed to a document, the nature of the document, and the parties to any agreement to which the common seal was affixed.
- (5) Any person who uses the common seal of the Local Government or a replica thereof without authority commits an offence.

Penalty \$1,000

**Item 9.4**

**SUBJECT: TAMALA PARK REGIONAL COUNCIL LOGO AND COMMON SEAL (PROPOSED)**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Deputy Chief Executive Officer of City of Stirling (for CEO Group)

**Recommendation**

1. That the Tamala Park Regional Council **ADOPT** the design for the logo depicted and proposed in the body of the report on this item.
2. That the Tamala Park Regional Council **ADOPT** the design for the common seal depicted and proposed in the body of the report on this item.

**Report Purpose**

The report purpose is to establish a logo for use by the Tamala Park Regional Council and to agree the form of a common seal to be used in signing and sealing documents on behalf of the Tamala Park Regional Council corporation.

**Relevant Documents**

Attachments: Not Applicable

Available for viewing at the meeting: Not Applicable

**Background**

The Local Government Act provides that a Regional Council is established as a body corporate with a common seal.

The signing of formal documents, on behalf of the Council, frequently requires application of the common seal.

Typically documents such as local laws and contracts, both of which are referred to elsewhere on the agenda, require the application of the common seal.

In the case of Tamala Park Regional Council there will be some thousands of documents relating to land transactions that will be signed and sealed on behalf of the Council.

Contemporary use of seals now requires an ink stamp in preference to an embossed paper stamp. This is important to the Registrar of Titles and other organisations which now rely upon keeping electronic copies of signed/sealed documents. In the case of the Department of Land Information, it has been notified that additional charges may apply where documents are sealed using an embossed rather than an ink stamp seal.

## Comment

- 12.1 The CEO Group representing landowner interests in Lot 118 Mindarie has reviewed the designs for the logo, common seal and the attendant logic for the designs and has recommended adoption by the TPRC. Early adoption of the designs will ensure that the new Regional Council is not restricted by lack of an opportunity to commence business with a logo/common seal.
- 12.2 The common seal does not need to be registered, however, it should provide some logic in its design.
- 12.3 It is anticipated that the progressive urban development of Lot 118 will bring forth an estate name(s) that will serve advertising and marketing purposes. Therefore, the common seal will probably not receive a lot of public exposure, however, the common seal will be extensively used on transfer of land documents, and contracts.
- 12.4 Desirable attributes of a logo/common seal are as follows:

1. It should contain elements which are descriptive of the owner organisation;
2. It should be distinctive – easily recognisable;
3. It should be simple in form to facilitate easy and high quality reproduction in various forms and sizes: eg;
  - Letterheads
  - Business cards
  - Brochures
  - Various electronic/digital and video presentations
4. It should be easily discernable where original colour is copied in black and white;
5. It should be capable of being used in a semi transparent form as a watermark for publications and in cases where it is desirable to add identification on all pages of a document;
6. It should be capable of being used as an imprint and dye stamp common seal; and
7. It should be capable of being adjusted to accommodate changes such as reduction or growth in number of participants – eg additional petals could be overlayed or subtracted from the suggested design, should the TPRC gain or lose participants.

NB: There will be greater focus on estate name and insignia rather than on the corporate logo/seal, however, the logo/seal should have a character that reflects essential characteristics of the business that it identifies.

- 12.5 The proposed logo design is shown on the left below, and the proposed common seal design is shown on the right.



The size of the common seal is representative of the size required.

The logic of the design is as follows:

*The 7 local authority owners of Lot 118 have been represented in the logo as the 7 petals in the proposed design.*

*The colour yellow represents the sun and sand, with green representing nearby bushland and native vegetation.*

*The white in the centre of the proposed design represents the coming together of the 7 Councils to form the new Regional Council to work together in unity.*

*The blue words of 'Tamala Park Regional Council' represent the nearby ocean and black line the endless horizon along the blue skyline.*

*The logo can take on a range of different configurations to form the common seal, and other brand variations, for marketing purposes.*

- 12.6 The creative credits for the design belong to Kylie Brock-Jeffs at City of Stirling.

**Item 9.5**

**SUBJECT: SCHEDULE OF COUNCIL MEETINGS (PROPOSED)**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Deputy Chief Executive Officer of City of Stirling (for CEO Group)

**Recommendation**

1. That the schedule of dates proposed for Council meetings as contained in this report be **ADOPTED** and **ADVERTISED**.

**Report Purpose**

To facilitate a program for Council meetings and for advertising of meeting dates as required by legislation.

**Relevant Documents**

Attachments: Proposed Meeting Dates and Venues Schedule

Available for viewing at the meeting: Not Applicable

**Background**

Section 5.3 of the Local Government Act requires that Councils meet in formal session at least 4 times per annum.

Most Councils meet at least once per month. The pattern with Regional Councils has been to meet bi-monthly and to schedule additional meetings according to business requirements.

The Local Government Administration Regulations require that Council meeting dates be advertised in advance.

In order to facilitate advertising, a schedule of meetings is proposed, initially on a bi-monthly basis excepting for an additional meeting following the inaugural meeting to facilitate Council instructions for administrative processes necessary to enable functioning of the Council.

A possible schedule of meeting dates is as follows:

9 March 2006 – Town of Cambridge

6 April 2006 – City of Wanneroo

8 June 2006 – City of Perth

3 August 2006 - City of Stirling

5 October 2006 – Town of Victoria Park

30 November 2006 – Town of Vincent

Date to be advised 2007 – City of Joondalup

## **Comment**

The proposed schedule of dates has recognised that Council members often meet to conduct Mindarie Regional Council business on Thursdays and that, in consequence, Thursdays are often kept free. The schedule proposes Thursdays that do not coincide already published Mindarie Regional Council meeting dates.

Councillors will be aware that three members of the Tamala Park Regional Council are also members of the Mindarie Regional Council.

For convenience an annual calendar with dates endorsed is attached to this report.

## **Consultation/Communication Implications**

Adoption of a schedule of meeting dates will enable compliance with statutory advertising.



# 2006 Tamala Park Regional Council Proposed Meeting Dates & Venues

## January

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## February

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28				

## March

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Cambridge

## April

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

Wanneroo

Wanneroo

## May

S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

## June

S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

Perth

## July

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Stirling

## August

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Vincent

Stirling

## September

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

## October

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Perth

Victoria Park

## November

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Vincent

## December

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Victoria Park



Mindarie Regional Council Meeting Date



Tamala Park Regional Council Proposed Meeting Date

Joondalup

## January 2007

**Item 9.6**

**SUBJECT: ELECTED MEMBER ALLOWANCES**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Deputy Chief Executive Officer of City of Stirling (for CEO Group)

**Recommendation**

- 1. That the following elected member allowances and reimbursements be APPROVED:**

1	Meeting Attendance Fee – Councillor	xx percentage allowance (maximum \$7,000)
2	Meeting Attendance Fee – Chairman	xx percentage allowance (maximum \$14,000)
3	Chairman Local Government Allowance	xx percentage allowance (non revenue based) (maximum \$12,000)
4	Deputy Chairman Local Government Allowance	xx percentage allowance (non revenue based) (maximum \$3,000 – 25%)
5	Telephone and Facsimile Allowance	xx percentage allowance (maximum \$2,400)
6	Information Technology Allowance	xx percentage allowance (maximum \$1,000)
7	Members Travelling Expense Allowance	cost reimbursement (or factored into attendance fees)

**NB 1: Percentages to be inserted**

**NB 2: Absolutely majority vote required**

- 2. That initial payments be for a PERIOD of 2 months to coincide with the Council year ending May 2006 and that having regard for Council administrative set up requirements and budget authorisation, that the payment be made at the end of the 2 month period.**
- 3. That FUTURE payments be made on a quarterly basis in arrears.**

**Report Purpose**

To formalise allowances for councillors of the Tamala Park Regional Council.

**Relevant Documents**

Attachments: Elected Member Allowances Schedule

Available for viewing at the meeting: Not Applicable

## Background

Elected members are eligible for certain payments, which fall into the following classifications:

1. A local government allowance for the Chairman and Deputy Chairman.
2. Allowances to members for attendance at meetings.
3. Reimbursement of expenses that are prescribed by regulation and must be reimbursed upon claim.
4. Reimbursement of expenses that are prescribed by regulation and must be reimbursed upon claim if the local government has passed required resolutions authorising the reimbursement of those expenses.

The WALGA Councillor's Manual provides some guidance for members in the following form:

*Under Section 5.98(1) of the Local Government Act 1995, each Council member (including the Mayor or president) has a right to be paid meeting attendance fees.*

*This is an individual right for each member to decide whether they wish to receive the payment. It is the right of the Council to decide:*

- *whether the fee payable will be an annual fee in lieu of a fee for each council or committee meeting attended; and*
- *the manner and frequency at which annual fees will be paid*

*The Council can also decide the amount of the fee payable within the statutory maximum and minimum amounts as prescribed in the Local Government (Administration) Regulations 1996 (the regulations).*

### **Allowances for Council members in lieu of reimbursement of expenses**

*A local government may decide (absolute majority) that instead of reimbursing Council members for all of a particular type of expense it will instead pay all Council members:*

- a) *the prescribed minimum annual allowance for that type of expense; or*
- b) *the annual allowance set by the local government within the prescribed range for that type of expense, and only reimburse the member for expenses of that type in excess of the amount of the allowance*

*The prescribed maximum total annual allowance for telephone and facsimile machine rental charges and any other telecommunication expenses otherwise approved for reimbursement by the local government is \$2,400.*

*The prescribed maximum total allowance for information technology expenses that have been approved for reimbursement by the local government is \$1,000.*

*The prescribed maximum annual allowance for travelling and accommodation expenses are:*

- *that prescribed as being a kind of expense to be reimbursed by all local governments (see **Council members – expenses**); or*
- *that have been approved for reimbursement by the local government is the same amount to which a person would be entitled for those expenses in the same circumstances under the **Public Service Award 1992** issued by the Western Australian Industrial Commission as amended from time to time.*

## Comment

Attached is a schedule of allowances that are available for payment to Council members. The figures in the schedule are the most recent figures set out in the Local Government (Administration) Regulations.

Matters that the Council might consider in making resolutions about members' allowances are:

1. The Council year extends from May to May and payments may be made on an annual basis. There is a 2-month period to the end of the 2006 Council year.
2. If the pattern of other Regional local governments is followed, it is likely that there will be approximately 6 Council meetings and 6 Committee meetings in the Council year.
3. Administrative costs are significantly reduced if the Council adopts a payment philosophy based upon prescribed amounts rather the reimbursement of actual expenses incurred.
4. Council resolutions expressed in percentage terms automatically cover changes in allowance rates prescribed by regulations from time to time. An example of a schedule using percentage criteria is shown below:

1	Meeting Attendance Fee – Councillor	xx percentage allowance (maximum \$7,000)
2	Meeting Attendance Fee – Chairman	xx percentage allowance (maximum \$14,000)
3	Chairman Local Government Allowance	xx percentage allowance (non revenue based) (maximum \$12,000)
4	Deputy Chairman Local Government Allowance	xx percentage allowance (non revenue based) (maximum \$3,000 – 25%)
5	Telephone and Facsimile Allowance	xx percentage allowance (maximum \$2,400)
6	Information Technology Allowance	xx percentage allowance (maximum \$1,000)
7	Members Travelling Expense Allowance	cost reimbursement (or factored into attendance fees)

**NB 1: Percentages to be inserted**

## Policy and Legislative Implications

Not applicable except for compliance requirements.

## Financial Implications

At full allowance rates cost will be approximately \$146,800 per annum (refer schedule attached).

# Allowances, Fees Expenses - Council Members Schedule of Amounts set out in Administrative Regulations under Part 5 LG Act

LG Act 5.98- R= Reg			Chairman		Deputy Chairman		Councillor		Per Annum Maximum	
			Minimum	Maximum	Minimum	Maximum	Minimum	Maximum		
R33/33A	LG Allowance		600	12,000	150	3,000				15,000
		Or .02% Revenue		60,000		15,000				75,000
R34	Attendance Fee	per annum	6,000	14,000	2,400	7,000	2,400	7,000		91,000
R30	Attendance Fee -	per CL meeting	140	280	60	140	60	140	10,920	if 6 Meetings pa
		per Cmmtee	30	70	30	70	30	70	9,660	if 6 Meetings pa
R34A	##Telecommunications		Actual	2,400	Actual	2,400	Actual	2,400		28,800
R34AA	##Information Technology Expenses		Actual	1,000	Actual	1,000	Actual	1,000		12,000
Per Member totals			6,600	29,400	2,550	13,400	2,400	10,400		146,800
Member Nos			1	1	1	1	10	10		12
Total Members			6,600	29,400	2,550	13,400	24,000	104,000	\$	146,800

## **Plus**

R34AB ##Travelling Allce Actual @ Public Serv Award

## **Notes**

Deputy Chair allce at 25% of chairman

Figures shaded are alternatives

Figures Shaded Are maximums

##Actual Costs require records kept by member

Costs (at Maximums) to end of Council year in may 2006 ( say 2/12)

\$ 24,467

**Item 9.7**

**SUBJECT: APPOINTMENT OF AUDIT COMMITTEE**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Deputy Chief Executive Officer of City of Stirling (for CEO Group)

**Recommendation**

1. That an Audit committee comprising a minimum of three members of the Council be **APPOINTED**.
2. That the Audit committee meet within a month to **DEVELOP** an audit charter and **COMMENCE** the process for appointment of an external auditor.

**Report Purpose**

To advise the statutory requirement for appointment of an Audit committee for the Tamala Park Regional Council.

**Relevant Documents**

Attachments: Local Government Operational Guideline No 9 – Audit Committees in Local Government

Available for viewing at the meeting: Local Government Audit Committee Regulations, operational 1 July 2006

**Background**

Section 7.1A of the Local Government Act was added in October 2004 requiring each local Council to appoint an Audit Committee.

The legislation set out some matters, which would be required to be addressed by the Audit Committee.

In July 2005 the Department of Local Government & Regional Development issued local government operational guidelines for Audit Committees in local government. The guidelines are attached.

Additionally, regulations have now been promulgated to come into operation on 1 July 2006 that will require specific activities to be performed by local government Audit Committees.

Included in the responsibilities of an Audit Committee are the following:

- The development of a process for appointment of an external auditor;
- The recommendation of an appointment of an external auditor, after consideration of qualified and willing parties, to the Council;

- The review of the Council budget and the statutory Council compliance return; and
- Guidance to the local government about matters requiring audit, financial management and risk assessment.

### **Comment**

An Audit committee must comprise a minimum of three members. Members are to be appointed by an absolute majority vote of the Council. The committee may include a person or persons who are not members of the Council. In which case at least 3 of the members of the committee must be members of the Council and the members of the Council must comprise a majority of the members of the committee.

Staff members, including the Chief Executive Officer, are not eligible to be members of the committee, but may attend committee meetings and provide advice to the committee.

It is a requirement that a committee develops an audit charter and the local government guidelines set out a model terms of reference that could be adopted.

Because of the important role that the Audit committee must play in relation to the appointment of external audit, the review of the Council budget and the compliance return, all of which will need to be given attention in the early months of the Council's operation. It would be advisable for an Audit committee to be appointed as soon as possible.

### **Policy and Legislative Implications**

The Audit committee will perform a pivotal legislative role in ensuring compliance by the Council with best practice and statutory requirements.

### **Strategic Implications**

The nature of the Council's business will require management of large contracts and cash flows and the probity with which Council operations are undertaken will require strong support from the Audit committee.

# Audit Committees in Local Government

Their appointment, function  
and responsibilities

LOCAL GOVERNMENT  
OPERATIONAL GUIDELINES

Number 9

July 2005



Department of Local Government  
and Regional Development  
Government of Western Australia

[www.dlgrd.wa.gov.au](http://www.dlgrd.wa.gov.au)



# Audit Committees in Local Government

## Their appointment, function and responsibilities

### 1. INTRODUCTION

An amendment to the *Local Government Act 1995* (the Act) in 2005 introduced a requirement that all local governments establish an audit committee. Such committees are to provide an independent oversight of the financial systems of a local government on behalf of the Council. As such, the committee will operate to assist Council to fulfil its corporate governance, stewardship, leadership and control responsibilities in relation to the local government's financial reporting and audit responsibilities.

The purpose of this guideline is to assist local governments to establish and operate an effective audit committee. Clear and comprehensive terms of reference, setting out the committee's roles and responsibilities, is essential and a model terms of reference for an audit committee is provided with this guideline. Matters such as the governing legislation, membership, primary roles and responsibilities of the committee and ancillary functions are also addressed. Guidance is provided to the committee as it approaches its task of appointing an external auditor through provision of a minimum standard audit specification.

### 2. LEGISLATION

The relevant parts of the Act and regulations that relate to financial management, audits and audit committees are listed below.

#### 2.1 Financial Management

In relation to financial management under Part 6 of the Act, a local government is to -

- a) prepare and adopt an annual budget in the form and manner prescribed. A copy of the budget is to be sent to the Department within 30 days of adoption.
- b) prepare an annual financial report and such other financial reports as are prescribed. The accounts of the local government and annual financial report are to be submitted to the auditor for audit by 30 September.
- c) have a municipal fund and a separate and distinct trust fund.
- d) establish and maintain reserve funds for the holding of monies set aside for future use.

#### 2.2 Audit requirements for local governments

Part 7 of the Act and the *Local Government (Audit) Regulations 1996* (the Regulations) address the situation of audit. In relation to the duties of the local government with respect to audits -

- a) the local government is to do everything in its power to -
  - i. assist the auditor to conduct an audit and carry out his or her other duties under the Act; and
  - ii. ensure that audits are conducted successfully and expeditiously.
- b) a local government is to meet with its auditor at least once in every year.
- c) a local government is to examine the report of the auditor and is to -
  - i. determine if any matters raised require action to be taken by the local government; and
  - ii. ensure that appropriate action is taken in respect of those matters.

- d) a local government is to -
  - i. prepare a report on any actions taken in respect of any matters raised in the report of the auditor; and
  - ii. forward a copy of that report to the Minister by the end of the next financial year, or 6 months after the last report prepared by the auditor is received by the local government, whichever is the latest in time.

#### 2.3 Audit Committees

The Act and Regulations provide that: -

##### 2.3.1 In relation to the establishment of an audit committee -

- a) each local government is to establish an audit committee consisting of three or more persons to exercise the powers and discharge the duties conferred on it.
- b) members of the committee are to be appointed by an absolute majority decision of Council. At least three of the members, and the majority of the members, are to be elected members.
- c) the CEO is not to be a member of the committee and may not nominate a person to be a member or have a person to represent him or her as a member of the committee.
- d) an employee is not to be a member of the committee.
- e) the only powers and duties that can be delegated to a committee are any of the powers and duties of the local government under Part 7 of the Act. The committee cannot out-delegate the powers and duties delegated to it.
- f) an audit committee with a person other than an elected member as a member can be delegated powers and duties.
- g) a decision of the committee is to be made by simple majority.

##### 2.3.2 As part of its function an audit committee -

- a) is to provide guidance and assistance to the local government -
  - i. as to the carrying out of its functions in relation to audits;
  - ii. as to the development of a process to be used to select and appoint a person to be the auditor; and
- b) may provide guidance and assistance to the local government as to -
  - i. matters to be audited;
  - ii. the scope of the audit;
  - iii. its functions under Part 6 of the Act that relate to financial management; and
  - iv. the carrying out of its functions relating to other audits and other matters related to financial management.

#### 2.4 Appointment of the Auditor

The Act and Regulations provide that -

- a) on the recommendation of the audit committee a local government is to from time to time appoint, by absolute majority, a person to be its auditor.
- b) the local government may appoint one or more persons as its auditor.
- c) the local government's auditor is to be a person who is -
  - i. a registered company auditor; or
  - ii. an auditor approved by the Minister.
- d) a person may not be appointed as a local government auditor if that person is -
  - i. a councillor or employee of the local government;
  - ii. in debt to the local government for more than \$5,000;
  - iii. a councillor or employee of a regional local government in which the local government is a participant;

- iv. a member of an incorporated association formed by the local government; or
- v. a class of persons as prescribed in the Regulations.
- e) an auditor is not to be appointed for more than five years.
- f) the appointment of a person as an auditor is to be made by agreement in writing and is to include –
  - i. the objectives of the audit;
  - ii. the scope of the audit;
  - iii. a plan for the audit;
  - iv. details of the remuneration and expenses to be paid to the auditor; and
  - v. the method to be used by the local government to communicate with, and supply information to, the auditor.

## 2.5 Conduct of the Audit

The Act and Regulations provide that –

- a) the auditor is required by 31 December next following the financial year to which the audit relates, to examine the accounts and annual financial report submitted for audit.
- b) the auditor is to form an opinion as to whether –
  - i. the accounts are properly kept; and
  - ii. the annual financial report –
    - is prepared in accordance with the financial records; and
    - represents fairly the results of the operations of the local government and its financial position at 30 June.
- c) the auditor is to prepare a report on the audit and within 30 days of completing the audit forward a copy to –
  - i. the mayor or president;
  - ii. the CEO of the local government; and
  - iii. the Minister.
- d) the report is to give the auditor's opinion on –
  - i. the financial position of the local government; and
  - ii. the results of the operation of the local government.
- e) the report is to include –
  - i. any material matters that indicate significant adverse trends in the financial position or the financial management practices of the local government;
  - ii. any matters indicating non-compliance with financial management requirements of the Act, Regulations and any other written law;
  - iii. details of whether information and explanations were obtained; and
  - iv. a report on the conduct of the audit.
- f) where it is considered appropriate to do so the auditor is to prepare a management report to accompany the auditor's report.
- g) where the auditor considers that –
  - i. there is any error or deficiency in an account or financial report;
  - ii. any money paid from, or due to the local government has been, or may have been misapplied; or
  - iii. there is a matter arising from the audit that needs to be addressed by the local government;
 details are to be included in the report to the Minister.
- h) the auditor has a right of access at all reasonable times to such books, accounts, documents and assets of the local government as are in the opinion of the auditor necessary to allow the audit to be conducted.

## 3. OPERATION OF AUDIT COMMITTEES

### 3.1 Role and Responsibilities

The role of the audit committee is to support Council in its endeavours to provide effective corporate governance and fulfil its responsibilities in relation to directing and controlling the affairs of the local government.

The essential role for an audit committee is oversight for all matters that relate to the conduct of audits. The committee's effectiveness will be greater if it is also given responsibility for oversight of financial management processes within the local government but only where a Council does not have a finance committee.

Please note that an audit committee (or any other committee) cannot be given a management task where the Act and Regulations make the CEO specifically responsible. Where the local government is assigned the function through the legislation the audit committee may have a role unless the function has been delegated to the CEO by the Council.

The deliberations and recommendations of the committee must be independent and autonomous. Therefore, the Act prohibits the CEO being a member of the committee. However, it is essential that the CEO be given every opportunity to provide his/her expert advice to the committee as he/she does with full Council and other committees. Therefore, the CEO or their nominated representative must be given official adviser status and attend all meetings.

A model terms of reference is attached as Appendix 1 to assist local governments to define an appropriate role for its audit committee. When considering the model, local governments need to remember it is a guide and they can delete or modify any matters they believe not applicable.

It is important to note that the legislation gives the audit committee a specific role in appointing the auditor. It is to recommend to the Council who should be appointed as the auditor. Attached as Appendix 2 is a model 'Minimum Standard Audit Specification' that local governments can use when developing a process to be used to select and appoint a person to be the auditor. Local governments can amend the document to suit their individual requirements. Any scope adopted must meet, as a minimum, the legislative requirements.

The legislation specifies that a local government is required to meet with its auditor at least once in every year. The term "local government" in this context means the Council. If Council so resolved via a formal delegation, a meeting between the audit committee and the auditor would satisfy this requirement.

It is acknowledged that the requirement to meet at least once per year may incur a significant financial burden for the more remote local governments. In such circumstances the meeting can be conducted by telephone or video conference. The Council or audit committee should resolve how the meeting with the auditor will be conducted and for the record of the meeting to show that the auditor was involved and the matters discussed. It would be inappropriate for Council representatives to meet with the auditor in their offices unless they were members of the Audit Committee or a significant majority of the members.

The committee may need to liaise regularly with the external auditor to discuss the audit plan, results of the audit and implementation of any recommendations for action emerging from the audit. The method of liaison between auditor and committee should be addressed in the agreement of appointment.

Advice from the auditor may address issues such as:

- (i) an assessment of accounting procedures;
- (ii) an assessment of internal controls;
- (iii) an assessment of risk;
- (iv) compliance with the *Local Government Act 1995* and associated regulations;
- (v) compliance with Council policies;
- (vi) performance assessments on the efficiency and effectiveness of operations;
- (vii) processes of the internal audit;
- (viii) outcomes of the external audit prior to issue of management and audit reports; and
- (ix) changes to accounting standards and legislation and the impact on the local government.

The audit committee should examine the auditor and management reports. The committee would then determine if any matters raised in the reports require action to be taken by the local government and to ensure that appropriate action is implemented.

A further role for the audit committee would be to receive and authorise the report relating to the audit prepared by the CEO that is to be sent to the Minister. This report would outline any actions the local government has taken or intends to take in relation to the matters identified by the auditor.

The role of the audit committee in relation to the internal audit function is a matter of conjecture. Most CEO's would argue that where there is a formal internal audit that it is an operational function and is their responsibility. The role of the Audit Committee may be to ensure that an internal audit function is put in place where required and that its processes are appropriate, accountable and transparent. The role of the external auditor in this regard can be established at the time of appointment.

### 3.2 Membership

An audit committee is required to consist of at least three persons, with the majority being elected members. Local governments may decide to appoint a committee involving only elected members or they may appoint one or more persons who are external to the Council. If a Council considers it appropriate the whole Council can be appointed as the audit committee.

If the local government wishes to appoint one or more persons other than elected members to the committee, it should ensure that they have the requisite knowledge and skills to provide benefit to the committee.

### 3.3 Operation of the Committee

Irrespective of the membership of the committee, all legislative requirements relating to committee meetings such as advertising meeting dates, notice of meeting and keeping minutes of meetings need to be complied with.

The legislation prevents a meeting fee being paid to an external person but it is permissible for a payment to be made, commensurate with the expertise and knowledge such people bring to the committee. The Council will need to determine whether payment will be offered and the level of that payment.

Members of the committee should be encouraged to attend appropriate courses to keep them up to date with legislation, accounting and other relevant issues.

### 3.4 Other Responsibilities

Local governments are required by legislation to complete a statutory compliance return and have the return adopted by Council. The return is a comprehensive checklist of a local government's compliance with the requirements of the *Local Government Act 1995* and all its Regulations. After adoption, the return is to be signed by the Mayor or President and the CEO prior to it being forwarded to the Department.

The detailed nature of the return makes it difficult for Council to assess any implications arising from the return at its Ordinary Council Meetings. In addition, the return covers a significant number of compliance matters that relate to the management of financial processes and procedures.

Therefore, as an option Council could consider allocating to the audit committee the role of reviewing the return and making a recommendation on its adoption. The audit committee could also consider proposals from the CEO as to whether the compliance audit is undertaken internally or an external party is contracted to undertake the task. In the case of an external party the audit committee would have the responsibility to receive the report and make recommendations on it to full Council.

## 4. THE EXTERNAL AUDITOR

### 4.1 Appointment of an Auditor

The Act requires that each local government, from time to time, appoint an auditor on the recommendation of the audit committee. The committee should undertake a proper selection and appointment process as part of appointing an auditor.

It is important to realise that the Act specifies that it is a person(s) that is appointed as auditor, not the company which employs the person. Therefore, when the audit report is received it must be signed by the person(s) appointed as the auditor; it cannot be the generic signature identifying the firm.

### 4.2 Scope of the Audit

The Act and Regulations prescribe the scope of the external audit of the annual financial statements of a local government.

The scope details are going to vary between local governments but as an aid a model minimum standard audit specification is attached as Appendix 2 to this guideline. Individual local governments can amend that document to suit their particular needs.

### 4.3 Reporting by the auditor

Regulations require the auditor, where appropriate, to prepare a management report to accompany the auditors report. Although there is no legislative requirement for the auditor to prepare a management report unless he or she deems it appropriate, local government may wish to require the auditor to prepare a report on all issues identified during the audit.

The auditor, after completing the audit, is to forward a copy of his or her audit and management report to:

- the Mayor or President;
- the CEO of the local government; and
- the Minister.

The CEO should be assigned the task of providing the report to the audit committee.

## Appendix 1

# MODEL TERMS OF REFERENCE – AUDIT COMMITTEES

Important: The following Model Terms of Reference contains clauses that may not be applicable to each local government. Local governments will need to consider each clause and only adopt those that are applicable to the roles and responsibilities and delegated powers and functions that will apply to their Audit Committee.

The clauses that are considered optional have been asterisked (\*).

## 1. Objectives of Audit Committees

The primary objective of the Audit Committee is to accept responsibility for the annual external audit and liaise with the local government's auditor so that Council can be satisfied with the performance of the local government in managing its financial affairs.

Reports from the committee will assist Council in discharging its legislative responsibilities of controlling the local government's affairs, determining the local government's policies and overseeing the allocation of the local government's finances and resources. The committee will ensure openness in the local government's financial reporting and will liaise with the CEO to ensure the effective and efficient management of local government's financial accounting systems and compliance with legislation.

The committee is to facilitate:

- the enhancement of the credibility and objectivity of \*internal and external financial reporting;
- \*effective management of financial and other risks and the protection of Council assets;
- compliance with laws and regulations as well as use of best practice guidelines relative to auditing;
- \*the coordination of the internal audit function with the external audit;
- the provision of an effective means of communication between the external auditor, \*internal auditor, the CEO and the Council.

## 2. Powers of the Audit Committee

The committee is a formally appointed committee of Council and is responsible to that body. The committee does not have executive powers or authority to implement actions in areas over which the CEO has legislative responsibility and does not have any delegated financial responsibility. The committee does not have any management functions and cannot involve itself in management processes or procedures.

The committee is to report to Council and provide appropriate advice and recommendations on matters relevant to its term of reference in order to facilitate informed decision-making by Council in relation to the legislative functions and duties of the local government that have not been delegated to the CEO.

## 3. Membership

The committee will consist of \*four members with three elected and \*one external person. All members shall have full voting rights.

\*External persons appointed to the committee will have business or financial management/reporting knowledge and experience, and be conversant with financial and other reporting requirements.

\*Appointment of external persons shall be made by Council by way of a public advertisement and be for a maximum term of two years. The terms of the appointment should be arranged to ensure an orderly rotation and continuity of membership despite changes to Council's elected representatives.

\*Remuneration will be paid to each external person who is a member of the committee on the basis of an annual fee.

The CEO and employees are not members of the committee.

The CEO or his/her nominee is to attend all meetings to provide advice and guidance to the committee.

The local government shall provide secretarial and administrative support to the committee.

## 4. Meetings

The committee shall meet at least \*quarterly.

Additional meetings shall be convened at the discretion of the presiding person.

## 5. Reporting

Reports and recommendations of each committee meeting shall be presented to the next ordinary meeting of the Council.

\*The committee shall report annually to the Council summarising its activities during the previous financial year.

## 6. Duties and Responsibilities

The duties and responsibilities of the committee will be –

- a) Provide guidance and assistance to Council as to the carrying out the functions of the local government in relation to audits.
- b) Develop and recommend to Council an appropriate process for the selection and appointment of a person as the local government's auditor.
- c) Develop and recommend to Council –
  - a list of those matters to be audited; and
  - the scope of the audit to be undertaken.
- d) Recommend to Council the person or persons to be appointed as auditor.
- e) Develop and recommend to Council a written agreement for the appointment of the auditor. The agreement is to include –
  - the objectives of the audit;
  - the scope of the audit;
  - a plan of the audit;
  - details of the remuneration and expenses to be paid to the auditor; and
  - the method to be used by the local government to communicate with, and supply information to, the auditor.
- f) \*Meet with the auditor once in each year and provide a report to Council on the matters discussed and outcome of those discussions.
- g) Liaise with the CEO to ensure that the local government does everything in its power to –
  - assist the auditor to conduct the audit and carry out his or her other duties under the *Local Government Act 1995*; and
  - ensure that audits are conducted successfully and expeditiously.
- h) Examine the reports of the auditor after receiving a report from the CEO on the matters and –
  - determine if any matters raised require action to be taken by the local government; and
  - ensure that appropriate action is taken in respect of those matters.
- i) Review the report prepared by the CEO on any actions taken in respect of any matters raised in the report of the auditor and presenting the report to Council for adoption prior to the end of the next financial year or 6 months after the last report prepared by the auditor is received, whichever is the latest in time.

- j) Review the scope of the audit plan and program and its effectiveness.
- k) \*Review the appropriateness of special internal audit assignments undertaken by internal audit at the request of Council or Chief Executive Officer.
- l) \*Review the level of resources allocated to internal audit and the scope of its authority.
- m) \*Review reports of internal audits and by monitoring the implementation of recommendations made by the audit and reviewing the extent to which Council and management reacts to matters raised.
- n) \*Facilitate liaison between the internal and external auditor to promote compatibility, to the extent appropriate, between their audit programs.
- o) \*Review the local government's draft annual financial report, focusing on:
  - accounting policies and practices;
  - changes to accounting policies and practices;
  - the process used in making significant accounting estimates;
  - significant adjustments to the financial report (if any) arising from the audit process;
  - compliance with accounting standards and other reporting requirements;
  - significant variances from prior years.
- p) \*Consider and recommend adoption of the annual financial report to Council. Review any significant changes that may arise subsequent to any such recommendation but before the annual financial report is signed.
- q) \*Address issues brought to the attention of the committee, including responding to requests from Council for advice that are within the parameters of the committee's terms of reference.
- r) Seek information or obtain expert advice through the CEO on matters of concern within the scope of the committee's terms of reference following authorisation from the Council.
- s) \*Review the Statutory Compliance Return and make a recommendation on its adoption to Council.

## Appendix 2

### MODEL MINIMUM STANDARD AUDIT SPECIFICATION

IMPORTANT: The following Model Minimum Standard Audit Specification may be used as the basis for the calling of tenders or seeking of quotes for the appointment of an auditor. Local governments need to consider the Model to ensure that only those clauses applicable to its requirements are used. This applies, in particular, to the "Critical matters to be audited".

#### 1. Introduction

This document is provided for the assistance of auditors who wish to apply for the role of auditor with the City/Town/Shire.

Auditors are required to address all of the matters outlined in the specification.

Auditors who submit an application may be asked to provide further information and/or make a presentation to the Audit Committee.

#### 2. Objectives of the Audit

To provide an independent audit opinion of the accounts and annual financial reports of the local government for each financial year covered by the term of the audit appointment.

#### 3. Term of Audit Appointment

For the financial years commencing 1 July ..... through to 30 June..... (not more than 5 years)

#### 4. Scope of the Audit

The auditor is to –

- 4.1 Carry out such work as is necessary to form an opinion as to whether -
  - (a) the accounts are properly kept; and
  - (b) the annual financial report:
    - (i) is prepared in accordance with the financial records; and
    - (ii) represents fairly the results of the operations of the local government and the financial position of the local government at 30 June in accordance with the Australian Accounting Standards, the *Local Government Act 1995* (as amended), the *Local Government (Financial Management) Regulations 1996* (as amended) and other mandatory professional reporting requirements.
- 4.2 Give an opinion in his or her audit report on –
  - (a) the financial position of the local government; and
  - (b) the results of the operation of the local government.
- 4.3 Include in his or her audit report –
  - (a) any material matters that indicate significant adverse trends in the financial position or the financial management practices of the local government;
  - (b) any matters indicating non-compliance with financial management requirements of the Act, Regulations and any other written law.

#### 5. Audit Methodology and Approach

- (a) The auditor is required to comply with the requirements of section 7.9 of the *Local Government Act 1995* and the *Local Government (Audit) Regulations 1996*.
- (b) An audit is to be carried out in accordance with "Auditing Standards" and "Auditing Guidance Statements" adopted from time to time by the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants in Australia.
- (c) The auditor is to provide the local government with a general outline of his/her methodology.
- (d) The auditor is to provide the local government with a plan for the audit including:
  - timing of interim audit visits;
  - final audit visit (within 30 days of being advised that the accounts and annual financial report are available for audit);
  - timing of the legislative requirement to meet with the local government and whether that meeting will be in person or by some other means; and
  - the method to be used to communicate with, and provide advice and information to, the local government.

- (e) The auditor is required to produce an audit report as required by section 7.9 of the *Local Government Act 1995* and, if considered appropriate by the auditor, a management report.

## 6. Critical Matters to be Audited

The auditor is to include in his or her application the extent to which the critical matters outlined below will be audited so as to form an opinion on the manner in which they have been maintained.

- (i) Revenue
  - Rates revenue
  - Government grants
  - User pays revenue
  - Profit on sale of non-current assets
  - Other income
- (ii) Expenditure
  - Salary and wage costs
  - Depreciation
  - Materials and contract expenditure
  - Loss on sale of non-current assets
  - Insurances
  - Bad debts
  - Other expenditure
- (iii) Current Assets
  - Bank and short term investments
  - Receivables and prepayments
  - Inventory
- (iv) Non-Current Assets
  - Property, plant, furniture and equipment
  - Infrastructure and depreciation
  - Other receivables
- (v) Liabilities (Current and non-current)
  - Creditors and accruals
  - Loan borrowings including new loans raised
  - Provision for annual and long service leave entitlements
- (vi) Reserve Funds
- (vii) Contingent Liabilities
- (viii) Capital Commitments
- (ix) Accounting Policies and Notes to the Financial Statements
- (x) Cash Flow Statement
- (xi) The financial ratios required by the Local Government (Financial Management) Regulations 1996

## 7. Hours, Fees and Expenditure

The auditor is to provide:

- Estimate of the time to be spent on the audit.
- Fees for completing the audit in accordance with this specification.
- Nominated auditor(s) and registered company audit number(s).
- Experience of the nominated auditors in completing local government audits.

The auditor is to provide a fee for any additional audit requested by Council.

## 8. Terms

Conditions to be noted by auditors:

- The auditor shall not sub contract to a third party.
- The auditor shall not, and has no right to, assign the audit contract to third parties.
- The auditor shall not be engaged by the local government to undertake any financial consultancy with the local government that requires the preparation of financial information that will be the subject of the annual audit.
- The auditor shall confirm that he or she has, and will maintain during the duration of the audit term, professional indemnity insurance covering the legal liability arising out of any neglect, default, error, or omission.

## 9. Termination of Appointment

The appointment as auditor is terminated if:

- (a) the auditor ceases to be a registered company auditor;
- (b) the auditor ceases to be an approved auditor under Section 7.5 of the *Local Government Act 1995*;
- (c) the auditor is a disqualified person under Section 7.4(2) of the *Local Government Act 1995*;
- (d) the auditor resigns by notice in writing to Council;
- (e) Council serves notice in writing to the auditor terminating the appointment.

## ABOUT THE GUIDELINE SERIES

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance requirement. The content is based on Departmental officers' knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.

## Further Information

For more information about this and other guidelines, contact the Local Government Support and Development Branch of the Department of Local Government and Regional Development on 9217 1500 or e-mail [lgd@dlgrd.wa.gov.au](mailto:lgd@dlgrd.wa.gov.au)

These guidelines are also available on the Department's website at <http://www.dlgrd.wa.gov.au>

**Item 9.8**

**SUBJECT: ESTABLISHMENT AGREEMENT**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Deputy Chief Executive Officer of City of Stirling (for CEO Group)

**Recommendation**

1. That the Council formally **NOTE** and **RECEIVE** into (public) minutes the **Establishment Agreement for the Tamala Park Regional Council**.

**Report Purpose**

To formally receive the Establishment Agreement for the Tamala Park Regional Council.

**Relevant Documents**

Attachments: Signed Establishment Agreement document

Available for viewing at the meeting: Not Applicable

**Background**

Seven local authorities, as joint owners of Lot 118 Mindarie, have sought to find a legal vehicle to facilitate the development of 165 hectares (approx) for urban purposes.

Following extensive research of options and, after taking legal advice, the Councils' concluded that the most appropriate vehicle to manage the joint interest of the Councils in urban development of part of Lot 118 Mindarie is a Regional Council, constituted under the Local Government Act.

An Establishment Agreement has been formulated over time and has been endorsed by each of the owner Councils after detailed review.

The Establishment Agreement was submitted to the Minister for Local Government & Regional Development for approval under the relevant provisions of the Local Government Act.

The Minister has approved the establishment of the Tamala Park Regional Council, as proposed by the Establishment Agreement and has signified approval by publication in the Government Gazette, as required by section 3.61 of the Local Government Act.

**Comment**

The Tamala Park Regional Council is now formally established.



The Establishment Agreement and its approval under the Local Government Act:

- Signifies the intent of 7 local authorities to come together in a common purpose.
- Facilitates the Tamala Park Regional Council as a decision-making body.
- Establishes a corporate body with legal status to transact business including contracting, and acquiring and disposing of assets and liabilities.

A summary of Establishment Agreement provisions is as follows:

- Clause 1: Records ownership shares in Lot 118 land and defines the portion of Lot 118 that is subject to the Tamala Park Regional Council regional purpose;
- Clause 2: Records the name of the Council - the Tamala Park Regional Council;
- Clause 4: Records the regional purpose as:
  - a) to undertake, in accordance with the objectives, the rezoning, subdivision, development, marketing and sale of the Land; and
  - b) to carry out and do all other acts and things which are reasonably necessary for the bringing into effect of the matters referred to in paragraph (a) of this clause.
- Clause 5: Sets out the objectives of the Council as the following:
  - a) to develop and improve the value of the Land;
  - b) to maximise, within prudent risk parameters, the financial return to the Participants;
  - c) to balance economic, social and environmental issues; and
  - d) to produce a quality development demonstrating the best urban design and development practice.
- Clause 6.1: Provides for the participants to appoint members to the Council;
- Clause 6.2: Effectively sets the normal term of office at two years expiring Friday before the normal local government election date;
- Clause 6.3: Provides for election of the Chairman and deputy chairman for (up to) 2 years by the Council;
- Clauses 6.4/6: Sets out the role of Chairman, Deputy Chairman and Council – provisions follow the roles set out in the Local Government Act;
- Clause 7: Requires participants to transfer to the Tamala Park Regional Council their interest in the 'Regional Purpose' land;
- Clause 8: Requires payment of rates to the City of Wanneroo when land is subdivided and in order for dealing;
- Clause 8: Provides that certain compensation payments received by participant Councils under the State's Bush Forever policy are assigned to the Regional Council and the circumstances when other contributions may be requested by the Tamala Park Regional Council;
- Clause 9: Deals with financial distributions to participants;
- Clause 10: Provides that the Tamala Park Regional Council may borrow funds;
- Clause 11: Deals with withdrawal conditions and essentially requires any withdrawal to be by common agreement;
- Clause 12: Provides that a participant may divest all or part of its ownership interest to other participants at market value;
- Clause 13: Deals with the winding up of the Council and the division of assets and liabilities;
- Clause 14: Deals with dispute resolution and facilitates arbitration as a last resort;
- Schedules describe participant ownership shares, number of participant members, dates of participant resolutions approving the establishment agreement and a plan of the 'regional purpose' land.

## **Policy and Legislative Implications**

The Establishment Agreement is the basis for the Tamala Park Regional Council operations.

## **Financial Implications**

The realisation of the purpose and objectives set out in the Establishment Agreement will provide positive cash flow for participant Councils over future years.

## **Strategic Implications**

The Council's activities will provide an urban development and community with infrastructure, social and economic benefits in the Perth northern corridor.

# Establishment Agreement

## Tamala Park Regional Council

---

Town of Cambridge (**Town of Cambridge**)

City of Joondalup (**City of Joondalup**)

City of Perth (**City of Perth**)

City of Stirling (**City of Stirling**)

Town of Victoria Park (**Town of Victoria Park**)

Town of Vincent (**Town of Vincent**)

City of Wanneroo (**City of Wanneroo**)

MinterEllison

L A W Y E R S

# Establishment Agreement

## Tamala Park Regional Council

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# Details

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## Date

## Parties

Name **Town of Cambridge**  
Short form name **Town of Cambridge**  
Notice details 1 Bold Park Drive, Floreat, Western Australia 6014  
Facsimile (08) 9347 6060  
Attention: Graham Partridge

Name **City of Joondalup**  
Short form name **City of Joondalup**  
Notice details Boas Avenue, Joondalup, Western Australia 6019  
Facsimile (08) 9300 1383  
Attention: Garry Hunt

Name **City of Perth**  
Short form name **City of Perth**  
Notice details Council House, 27 St Georges Terrace, Perth, Western Australia 6000  
Facsimile (08) 9461 3083  
Attention: Frank Edwards

Name **City of Stirling**  
Short form name **City of Stirling**  
Notice details 25 Cedric Street, Stirling, Western Australia 6021  
Facsimile (08) 9345 8822  
Attention: Lindsay Delahaunty

Name **Town of Victoria Park**  
Short form name **Town of Victoria Park**  
Notice details 99 Shepperton Road, Victoria Park, Western Australia 6100  
Facsimile (08) 9311 8181  
Attention: John Bonker

Name **Town of Vincent**  
Short form name **Town of Vincent**  
Notice details 244 Vincent Street, Leederville, Western Australia 6007  
Facsimile (08) 9273 6099  
Attention: John Giorgi JP

Name **City of Wanneroo**  
Short form name **City of Wanneroo**  
Notice details 23 Dundobar Road, Wanneroo, Western Australia 6065  
Facsimile (08) 9405 5499  
Attention: Charles Johnson

## Background

- A The Participants are the owners of the Land, in the shares set out in Schedule 1.
- B The Participants wish to ensure that the Land is rezoned, subdivided, developed and sold and, for that purpose, have agreed to the establishment of the TPRC and the transfer of the Land to the TPRC.
- C Each of the Participants has resolved, on the dates referred to in Schedule 2, to enter into this Establishment Agreement and to submit it to the Minister for approval under section 3.61 of the Act.

# Agreed terms

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## 1. Defined terms

In this Establishment Agreement:

**Act** means the *Local Government Act 1995* and includes the regulations made under that Act.

**Budget Deficiency** has the same meaning as the expression 'budget deficiency' is given in Part 6 of the Act.

Note: The expression "budget deficiency" is defined by section 6.1 of the Act to mean:

'in relation to a financial year, the amount referred to in section 6.2(2)(c)'.

Section 6.2(2)(c) refers to:

'the amount required to make up the deficiency, if any, shown by comparing the estimated expenditure with the estimated revenue and income'.

**CEO** means the chief executive officer of TPRC.

**Land** means so much of:

- (a) the land, being part of Lot 118 Mindarie, that is comprised within Areas 3, 7 and 10 on the plan in Schedule 4;
- (b) any other land, being part of Lot 118 Mindarie, comprising or within Areas 5 and 16 on the plan in Schedule 4:
  - (i) that is rezoned 'Urban' under the *Metropolitan Region Scheme*; and
  - (ii) in respect of which any lease to the Mindarie Regional Council has been surrendered;
- (c) any other land between Lot 118 and the Mitchell Freeway Reserve that is transferred to the Participants or the TPRC as a result of negotiations with the State under the Bush Forever Policy;
- (d) any other land, adjacent to the land described in paragraphs (a)-(c) above, that may be acquired by the TPRC for the purpose of undertaking its obligations in relation to the land described in paragraphs (a)-(c) above; and
- (e) any other land, in the near vicinity of the land described in paragraphs (a)-(c) above, that may be acquired by the TPRC in exchange for any other land owned by the TPRC for the purpose of undertaking its obligations in relation to the land described in paragraphs (a)-(c) above,

as is owned, from time to time, by the Participants (jointly) or by the TPRC.

**Lot 118 Mindarie** means Lot 118 on Deposited Plan 28300 being the whole of the land in Certificates of Title:

- (a) 2213/691 (the 1/12<sup>th</sup> share of City of Perth);
- (b) 2213/692 (the 1/12<sup>th</sup> share of Town of Cambridge);
- (c) 2213/693 (the 1/12<sup>th</sup> share of Town of Victoria Park);



- (d) 2213/694 (the 1/12<sup>th</sup> share of Town of Vincent);
- (e) 2213/695 (the 4/12<sup>th</sup> shares of City of Stirling);
- (f) 2213/696 (the 2/12<sup>th</sup> shares of City of Joondalup); and
- (g) 2213/697 (the 2/12<sup>th</sup> shares of City of Wanneroo).

**Minister** means the Minister of the Crown to whom the administration of the Act is for the time being committed by the Governor and includes a Minister of the Crown for the time being acting for or on behalf of the Minister.

**Operative Date** means the date on which the Minister declares, by notice in the Gazette under section 3.61(4) of the Act, that the TPRC is established.

**Participants** means the parties to this Establishment Agreement and **Participant** means any one of them.

**Region** means the districts of the Participants.

**Regional Purpose** means the purpose referred to in clause 4.

**Surplus**, for a financial year, means the amount, if any:

- (a) by which the revenue and income of the TPRC exceeds its expenditure; and
- (b) which is shown as a surplus in the annual financial report, for that year, prepared by the TPRC in accordance with the Act.

**TPRC** means the Tamala Park Regional Council.

**TPRC Council** means the council of the TPRC.

**Withheld Sum** means the sum reasonably necessary to be withheld from a Surplus distribution under clause 9.1 having regard to:

- (a) the TPRC's objectives, including its objective to maximise, within prudent risk parameters, the financial return to the Participants; and
- (b) the TPRC's need to maintain a positive cash flow balance for operational costs and approved development works.

## 2. Name

The name of the regional local government is the Tamala Park Regional Council.

Notes:

1. Section 3.62(1) of the Act provides that a regional local government is a body corporate with perpetual succession and a common seal.
2. A regional local government has the same general function of a local government, including its legislative and executive functions. See sections 3.61(1) and 3.66 of the Act.
3. Except as stated in section 3.66, the Act applies to a regional local government as if:
  - (a) the Participants' districts together made up a single district; and
  - (b) the regional local government were the local government established for that district.
4. Section 3.66(2) provides that a regional local government can only do things for the regional purpose (see clause 4 below).

### 3. Region

The TPRC is established for the Region.

### 4. Regional purpose

The regional purpose for which the TPRC is established is:

- (a) to undertake, in accordance with the objectives, the rezoning, subdivision, development, marketing and sale of the Land; and
- (b) to carry out and do all other acts and things which are reasonably necessary for the bringing into effect of the matters referred to in paragraph (a) of this clause.

Note:

In certain circumstances, a proposal to undertake a Regional Purpose may require the preparation of a business plan under the Act – see section 3.59 of the Act.

### 5. Objectives

- (a) The objectives of the TPRC are:
  - (i) to develop and improve the value of the Land;
  - (ii) to maximise, within prudent risk parameters, the financial return to the Participants;
  - (iii) to balance economic, social and environmental issues; and
  - (iv) to produce a quality development demonstrating the best urban design and development practice.
- (b) A failure or alleged failure of the TPRC to meet any of the objectives set out in this clause:
  - (i) is not to affect the obligations of a Participant to comply with this Establishment Agreement; and
  - (ii) is not to give rise to any claim or entitlement to damages on the part of a Participant.

Note:

Administrative law remedies may be available to a Participant in relation to the TPRC's observance of the objectives set out in this clause.

### 6. The Council

#### 6.1 Appointment of members

- (a) Each Participant is to appoint a member or members of the council of the Participant to be a member or members of the TPRC Council:
  - (i) from the Operative Date – in the numbers set out in Schedule 3; and
  - (ii) from any change to the Participants – in the numbers agreed under clause 11.5(c).

- (b) A Participant may appoint a member or members of the council of the Participant as an alternate member or members for the member or members appointed by that Participant under paragraph of this clause.
- (c) An alternate member may act temporarily in place of the member, for whom he or she was appointed an alternate member, during any period in which the latter is unable, by reason of illness, temporary absence from the State, conflict of interest or for any other cause, to perform the functions of the office.

Note: section 3.62(b) of the Act provides that a regional local government is to have, as its governing body, a council established under the establishment agreement and consisting of members of the councils of the Participants.

## 6.2 Tenure of members of the TPRC Council

A member of the TPRC Council is to hold office until:

- (a) the Friday before the ordinary local government elections, currently held every 2 years in May, or at such other time as may be prescribed for the ordinary local government elections by the Act (**local government elections**), after the Operative Date;
  - (b) the member's office, as a member of the council of the Participant, becomes vacant; or
  - (c) the member's appointment is terminated by the Participant,
- whichever occurs first.

Note: sections 2.32 and 2.33 of the Act set out circumstances in which the office of a member of a council becomes vacant and section 4.4 of the Act deals with ordinary elections for local governments.

## 6.3 Election of chairman and deputy chairman

- (a) The members of the TPRC Council are to elect a chairman and a deputy chairman:
  - (i) at the first meeting of the TPRC Council following the Operative Date;
  - (ii) at the first meeting of the TPRC Council following the first Saturday:
    - (A) after the local government elections following the Operative Date; and
    - (B) after the local government elections every 2 years after the Operative Date.
- (b) If the office of chairman or deputy chairman becomes vacant then the members of the TPRC Council are to elect a new chairman or deputy chairman, as the case requires.
- (c) The election referred to in subclause (b) is to take place:
  - (i) in the case of the office of chairman – in accordance with the provisions of Division 1 of Schedule 2.3 of the Act applying to the election of mayors and presidents; and
  - (ii) in the case of the office of deputy chairman – in accordance with the provisions of Division 2 of Schedule 2.3 of the Act applying to the election of deputy mayors and deputy presidents.

## 6.4 Tenure of chairman and deputy chairman

A chairman or deputy chairman is to hold that office from the date of election under clause 6.3 until:

- (a) he or she ceases to be a member of the TPRC Council, otherwise than under clause 6.2(a);
- (b) the election of a new chairman or deputy chairman, as the case may be; or
- (c) the expiry of the period of 2 years from the date of the last local government elections,

whichever occurs first.

## **6.5 Role of chairman**

The chairman:

- (a) presides at meetings of the TPRC Council;
- (b) carries out civic and ceremonial duties on behalf of the TPRC;
- (c) speaks on behalf of the TPRC;
- (d) performs such other functions as are given to the chairman by the Act, any other written law or this Agreement; and
- (e) liaises with the CEO on the TPRC's affairs and the performance of its functions.

Notes:

- 1. The role of the TPRC Council is set out in section 2.7 of the Act and is identical to the role of the council of a local government.
- 2. The functions of the CEO are set out in section 5.41 of the Act.
- 3. The chairman may agree to the CEO speaking on behalf of the TPRC - see section 5.41(f) of the Act.

## **6.6 Role of deputy chairman**

- (a) The deputy chairman performs the functions of the chairman when authorised to do so under this clause.
- (b) If:
  - (i) the office of chairman is vacant; or
  - (ii) the chairman is not available or is unable or unwilling to perform the functions of chairman,

then the deputy chairman may perform the functions of chairman.

## **6.7 Role of members of TPRC Council**

A member of the TPRC Council:

- (a) represents the interests of the ratepayers and residents of the Region;
- (b) facilitates communication between the community of the Region and the TPRC Council;
- (c) participates in the TPRC's decision-making processes at meetings of the TPRC Council and its committees; and
- (d) performs such other functions as are given to the member by the Act or any other written law.

# **7. The Land**

## **7.1 Transfer**

When requested by the TPRC Council, the Participants are to transfer to the TPRC that part of the Land that is owned by the Participants.

## 7.2 Documentation

The Participants are to execute whatever documentation relating to the Land – such as the transfer of, or other dealings with, the Land – as the TPRC requires to enable it to undertake its Regional Purpose.

## 7.3 Rates equivalent payment

From the date of the transfer of the Land to the TPRC, and for so long as the Land, or part of the Land, is owned by the TPRC and is not rateable land under Part 6 of the *Local Government Act 1995*, the TPRC is to pay to the City of Wanneroo a rates equivalent payment in respect of the Land, or that part of the Land, calculated:

- (a) on the gross rental value – in respect of the Land or that part of the Land, that has been subdivided for the purposes of the sale of lots to the public, from the date that the approved plan or diagram of survey is marked by the Department of Land Information as being in order for dealing;
- (b) on the unimproved value – in respect of the balance of the Land; and
- (c) in respect of (a) and (b), by applying the minimum rate or the general rate in the dollar for unimproved values or gross rental values, as the case requires, but so as not to include any administrative fees or penalties or any specified area rate or differential general rate which is intended to apply only to the Land and to no other land.

## 8. Financial contributions

### 8.1 Bush Forever compensation payments

Each Participant is to ensure that the amount of the State's payment or payments of compensation to that Participant under the Bush Forever Policy in respect of the Land:

- (a) is paid to the TPRC directly by the State; or
- (b) is paid by the Participant to the TPRC within 14 days of:
  - (i) the payment being received from the State by the Participant; or
  - (ii) the Operative Date,
 whichever occurs later.

### 8.2 Annual contributions

If a Budget Deficiency is shown in the annual budget of the TPRC, and if the Land has not been transferred to the TPRC:

- (a) the TPRC Council may request the Participants to make a contribution; and
- (b) the Participants are to make the contribution, as requested by the TPRC Council, in the proportions set out in Schedule 1.

### 8.3 Other contributions

If the Land has not been transferred to the TPRC:

- (a) the TPRC Council may request the Participants to make a contribution for the regional purpose (other than an annual contribution referred to in clause 8.2), including a contribution towards acquisition of any asset of capital nature; and
- (b) the Participants are to make the contribution, as requested by the TPRC Council, in the proportion set out in Schedule 1.

## **8.4 Manner of payment**

The contributions referred to in clauses 8.2 and 8.3 are to be paid by each Participant to the TPRC in the manner and at the times requested by the TPRC Council.

## **8.5 Late payment**

Unless otherwise agreed, if a Participant fails to pay to the TPRC a sum of money owing under this clause on or before the due date for payment, that Participant is to pay to the TPRC, in addition to the sum of money due and payable, interest at the overdraft rate charged by the TPRC's bank on amounts of the same size as the unpaid sum, calculated from and including the due date of payment to but excluding the actual date of payment.

## **8.6 Annual financial statements**

The TPRC is to give to each Participant a copy of the TPRC's annual financial statements, including details of all assets and liabilities, at the same time as these are submitted each year to the TPRC's auditors.

# **9. Financial distributions**

## **9.1 Surplus**

Where there is a Surplus, the TPRC:

- (a) is to distribute to the Participants the amount by which the surplus exceeds the Withheld Sum;
- (b) may distribute to the Participants all or part of the Withheld Sum; and
- (c) is to pay the distribution to the Participants in the proportions set out in Schedule 1.

## **9.2 Other distributions**

On the basis of:

- (a) a quarterly financial report, prepared in accordance with the Act, in respect of a financial year; and
- (b) current budgeted projections for that financial year,

the TPRC Council may determine that an amount not exceeding the TPRC's excess funds should be distributed to the Participants.

## **9.3 Manner of distribution**

The payment of any amount under clause 9.1 or 9.2 is to be in the manner and at the time determined by the TPRC Council, having regard to the prudent management of its cashflow and financial requirements.

# **10. Borrowings**

## **10.1 Act to apply**

Part 6, Division 5, Subdivision 3 of the Act is to apply.

Note:

- 1. Section 3.66(4) of the Act provides that Part 6, Division 5, Subdivision 3 does not apply in relation to a regional local government unless the Establishment Agreement provides that it does.

2. Part 6, Division 5. Subdivision 3 of the Act deals with borrowings and includes the power to borrow and restrictions on borrowings.

## **10.2 Security**

If the Land has not been transferred to the TPRC, the TPRC may give security over any of the financial contributions of the Participants to the TPRC's funds as agreed from time to time by the Participants.

## **11. Withdrawal of a Participant**

### **11.1 Withdrawal conditions**

A Participant may withdraw from the TPRC only:

- (a) after divesting itself of its interest (if any) in the Land under clause 12; and
- (b) in accordance with an agreement in writing between the Participants under this clause.

### **11.2 Notice**

A Participant who wishes to withdraw from the TPRC is to give to each of the other Participants and to the TPRC, in accordance with clause 11.3, notice in writing of its wish to do so.

### **11.3 Permitted notice periods**

A notice under clause 11.2, or under clause 12.3, must be given within 28 days of any of the following events:

- (a) the date on which the State Government provides written acknowledgment of the amount that it has agreed, with the Participants or the TPRC, to pay under its 'Bush Forever' policy;
- (b) the date of final adoption by the Western Australian Planning Commission of a structure plan for the development of the Land;
- (c) the date of adoption by the TPRC of a detailed implementation plan for the Land; and
- (d) the date of completion of the audit of each annual financial report for the TPRC for the preceding financial year, or 30 September, whichever occurs first.

### **11.4 Negotiations in good faith**

The Participants are to negotiate:

- (a) in good faith with a view to reaching agreement; and
- (b) as soon as practicable following receipt of a notice under clause 11.2.

### **11.5 Requirements of agreement**

An agreement under this clause:

- (a) is to specify the date on which the withdrawal is to take effect;
- (b) is to specify either:
  - (i) the amount to be paid to or by the withdrawing Participant; or
  - (ii) the methodology for determining the amount to be paid to or by the withdrawing Participant; and
- (c) is not to take effect unless the other Participants have agreed in writing to vary this Establishment Agreement so as to provide for:

- (i) the determination of the contributions to be made by those Participants to the funds of the TPRC;
- (ii) the alteration of either or both of:
  - (A) the number of members of the TPRC Council; and
  - (B) the number of members of the TPRC Council to be appointed by one or more of those Participants; and
- (iii) following the divestment under clause 12:
  - (A) the proportions in which the remaining Participants hold the Land; and
  - (B) the payments to be made under clause 12.

## **11.6 Matters relevant to negotiations**

When negotiating under this clause, the Participants are to have regard to:

- (a) the following principles:
  - (i) if the TPRC has an excess of assets over liabilities as shown in the financial statements of the TPRC, then:
    - (A) firstly, to the extent that the withdrawing Participant's proportionate entitlement to the excess is sufficient to do so, the withdrawing Participant is to be given credit for its capital contributions as shown in the accounting records of the TPRC; and
    - (B) secondly, the withdrawing Participant is to be given credit for any balance remaining of that proportionate entitlement to the excess; or
  - (ii) if the TPRC has an excess of liabilities over assets as shown in the financial statements of the TPRC, then the withdrawing Participant is to meet its proportionate liability of the excess; and
- (b) any factor or circumstances considered relevant by the Participants including any financial consequences for the TPRC and the Participants other than the withdrawing Participant, associated with any contractual obligations of the TPRC, by reason of the proposed withdrawal.

## **11.7 Failure to reach agreement**

Any failure by the Participants to reach agreement under this clause is not to be treated as a dispute for the purpose of clause 14.

# **12. Divestment of ownership interests**

## **12.1 Definitions**

In this clause:

- (a) 'Divesting Participant' means a Participant who has an ownership interest in the Land and wishes to divest itself of that interest; and
- (b) 'Remaining Participant' means each other Participant.

## **12.2 Divestment only under this clause**

A Participant is not to divest itself of its ownership interest in the Land otherwise than in accordance with this clause.



**12.3 Notice**

A Divesting Participant is to give to each Remaining Participant and to the TPRC, in accordance with clause 11.3, notice in writing of its proposed divestment.

**12.4 Offer to Remaining Participants**

A notice given under clause 12.3 is taken to be an offer, by the Divesting Participant to the Remaining Participants, to sell its interest in the Land as identified in the notice:

- (a) to the Remaining Participants in the proportion that each of the Remaining Participants' shares bears to the whole of the Remaining Participants' shares; and
- (b) in accordance with the most recent valuation that is required to be carried out under clause 12.7.

**12.5 Acceptance among Remaining Participants**

If a Remaining Participant does not accept the offer under clause 12.4 within 30 days of the notice being given to it, the interest in the Land that could have been accepted by that Remaining Participant:

- (a) is taken to have been made to the other Remaining Participants;
- (b) may be accepted by the other Remaining Participants; and
- (c) is to be accepted by such of the other Remaining Participants who wish to accept the offer, in the proportion that each of the other Remaining Participants' shares bears to the whole of the other Remaining Participants' shares.

**12.6 Payment**

The acceptance of an offer made by a Divesting Participant is to be subject to terms that:

- (a) interest is to be payable on any part of the accepted price not paid to the Divesting Participant within 60 days after the date on which the offer is taken to have been made;
- (b) if payment of the full amount due to the Divesting Participant has not been made by a Remaining Participant within 90 days after the date on which the offer is taken to have been made, then the Divesting Participant may, at its option, give notice to that Remaining Participant that the sale to that Remaining Participant is terminated; and
- (c) if the sale is terminated under paragraph (b), the relevant interest in the Land:
  - (i) is taken to have been offered to the other Remaining Participants;
  - (ii) may be accepted by the other Remaining Participants; and
  - (iii) is to be accepted by such of the other Remaining Participants who wish to accept the offer, in the proportion that each of the other Remaining Participants' shares bears to the whole of the other Remaining Participants' shares.

**12.7 Valuation**

- (a) A Participant who wishes to consider withdrawing from the TPRC may ask the TPRC to arrange, at its cost, for the Land to be valued by a licensed valuer within 14 days of any of the dates specified in clause 11.3.
- (b) The TPRC is to comply with a request made under paragraph (a).

**12.8 Requirements of the Act**

Each Participant is to comply with the requirements of the Act that affect the sale and purchase of an interest in the Land, such as the current requirements relating to a major land transaction.

## 13. Winding up

### 13.1 Winding up by agreement

The Participants may, by agreement, wind up the TPRC.

### 13.2 Division of assets

- (a) If the TPRC is to be wound up and there remains, after satisfaction of all its debts and liabilities, any property and assets of the TPRC then the property and assets are to be realised and:
  - (i) the proceeds, along with any surplus funds, are to be used to repay to the Participants their respective capital contributions as shown in the accounting records of the TPRC; and
  - (ii) the balance, if any, is to be divided among the Participants in the proportions set out in Schedule 1.
- (b) For the avoidance of doubt, for the purposes of subclause (a), any capital contributions of the Participants do not accrue interest.

### 13.3 Division of liabilities

If the TPRC is to be wound up and there remains any liability or debt in excess of the realised property and assets of the TPRC, then the liability or debt is to be met by each of the Participants in the proportions set out in Schedule 1.

## 14. Dispute resolution

### 14.1 No proceedings

A Participant must not start arbitration proceedings in respect of a dispute arising out of this Agreement (**Dispute**) unless it has complied with this clause.

### 14.2 Notification of dispute

A Participant claiming that a Dispute has arisen must notify the TPRC and the other Participants giving details of the Dispute.

### 14.3 Reasonable efforts to resolve Dispute

- (a) During the 14 day period after notification is given under clause 14.2 (or longer period agreed in writing by the Participants) (**Negotiation Period**), the TPRC and the Participants must use their reasonable efforts to resolve the Dispute.
- (b) Although the TPRC and the Participants are responsible for the resolution of the Dispute, within the first 7 days of the Negotiation Period, if the Dispute continues, the chief executive officers of the Participants and the CEO of the TPRC must meet, and use their reasonable endeavours to resolve the Dispute.

### 14.4 Dispute resolution process

If the Dispute is not resolved within the Negotiation Period, the Participants shall meet and endeavour to agree on:

- (a) a process for resolving the Dispute other than by litigation or arbitration (such as by further negotiations, mediation, conciliation or expert determination);
- (b) the procedure and timetable for any exchange of documents and other information relating to the Dispute;

- (c) the procedural rules and timetable for the conduct of the selected mode of proceeding;
- (d) a procedure for the selection and compensation of any independent persons engaged by the Participants to assist in resolution of the Dispute; and
- (e) whether or not the Participants should seek the assistance of a dispute resolution organisation.

## 14.5 Arbitration

If the Participants are unable to agree on a process for resolving the Dispute in accordance with clause 14.4 within 21 days after the Negotiation Period then:

- (a) any Participant may notify the others in writing (**Arbitration Notice**) that it requires the dispute to be referred to arbitration; and
- (b) the dispute (unless meanwhile settled), on receipt of the Arbitration Notice by the recipients, is taken to be referred to arbitration under and in accordance with the provisions of the *Commercial Arbitration Act 1985*.

## 14.6 Legal representation

For the purposes of the *Commercial Arbitration Act 1985*, the Participants consent to each other and to the TPRC being legally represented at any such arbitration.

# 15. Interpretation

## 15.1 Interpretation

In this Establishment Agreement, unless the context requires otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing any gender include the other genders;
- (c) references to persons include corporations and bodies politic;
- (d) references to a person include the legal personal representatives, successors and assigns of that person;
- (e) a reference to a statute, planning scheme, or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);
- (f) references to this or any other document include the document as varied or replaced, and notwithstanding any change in the identity of the parties;
- (g) references to writing include any mode of representing or reproducing words in tangible and permanently visible form;
- (h) an obligation of two or more parties is to bind them jointly and severally;
- (i) if a word or phrase is defined other parts of speech and grammatical forms of that word or phrase have corresponding definitions;
- (j) references to a person or body which has ceased to exist or has been reconstituted, amalgamated, reconstructed or merged, or the functions of which have become exercisable by any other person or body in its place, are to be taken to refer to the person or body established or constituted in its place or by which its functions have become exercisable;

- (k) an obligation incurred in favour of two or more parties is to be enforceable by them jointly and severally;
- (l) reference to any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them;
- (m) reference to a month and cognate terms means a period commencing on any day of a calendar month and ending on the corresponding day in the next succeeding calendar month but if a corresponding day does not occur in the next succeeding calendar month the period shall end on the last day of the next succeeding calendar month;
- (n) includes means includes without limitation;
- (o) references to this Establishment Agreement include its schedules.

## 15.2 Headings and footnotes

Headings and footnotes are to be ignored in construing this Establishment Agreement.

## 15.3 Time

- (a) References to time are to local time in Perth, Western Australia; and
- (b) unless otherwise specified, where time is to be reckoned from a day or event, that day or the day of that event is to be excluded.

Note:

### Amendment of Establishment Agreement

1. The Participants may amend this Establishment Agreement by agreement made with the Minister's approval - see section 3.65(1) of the Act.

### Admission of Other Local Governments

2. This Establishment Agreement can be amended to include another local government as a party to the amending agreement - see section 3.65(2) of the Act.

## Schedule 1 – Ownership shares

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Participant	Share/proportion
Town of Cambridge	$\frac{1}{12}$
City of Joondalup	$\frac{1}{6}$
City of Perth	$\frac{1}{12}$
City of Stirling	$\frac{1}{3}$
Town of Victoria Park	$\frac{1}{12}$
Town of Vincent	$\frac{1}{12}$
City of Wanneroo	$\frac{1}{6}$

## Schedule 2 – Resolution dates

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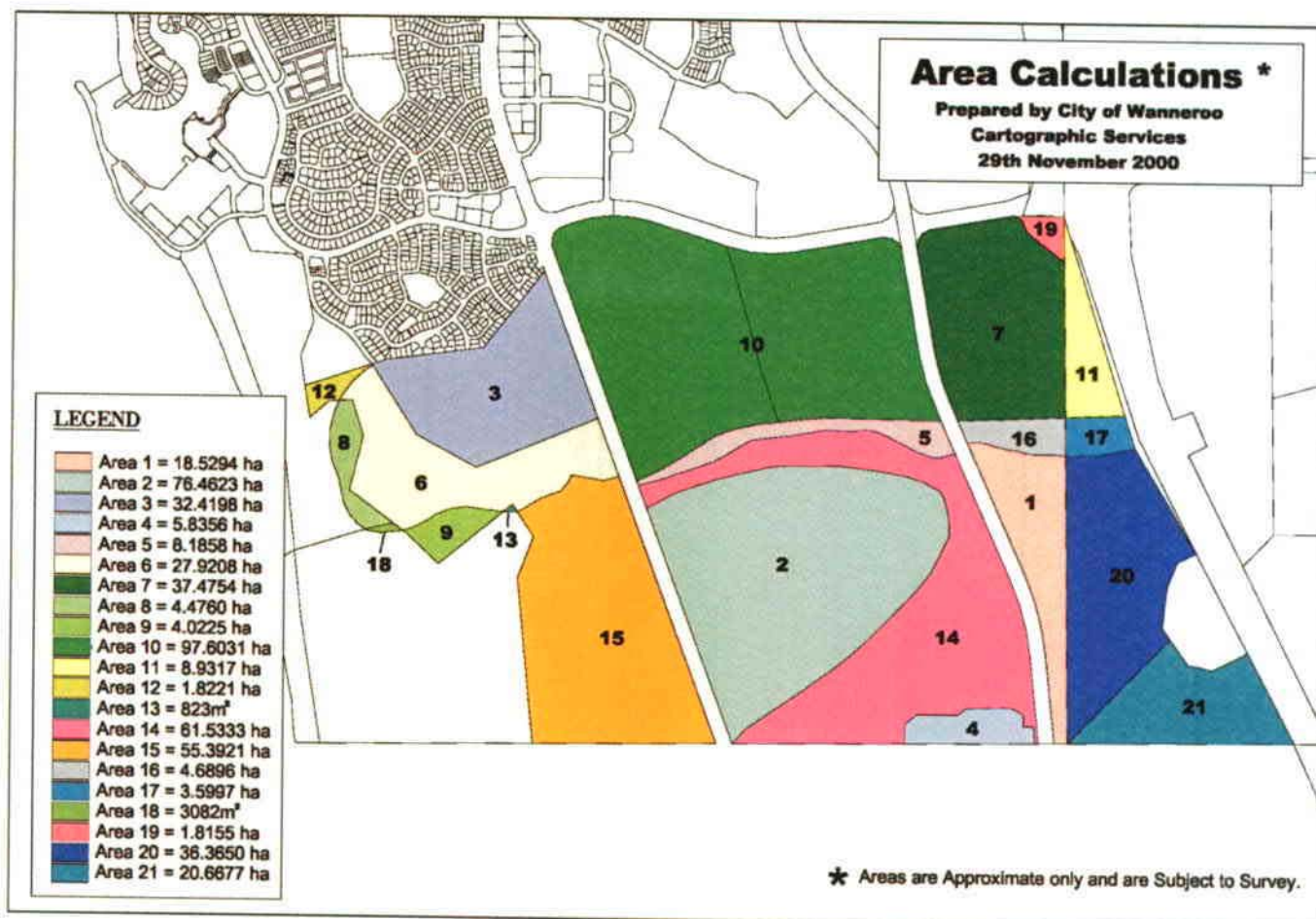
<b>Participant</b>	<b>Date of resolution to enter into this Establishment Agreement</b>
<b>Town of Cambridge</b>	<b>20 December 2005</b>
<b>City of Joondalup</b>	<b>13 December 2005</b>
<b>City of Perth</b>	<b>13 December 2005</b>
<b>City of Stirling</b>	<b>13 December 2005</b>
<b>Town of Victoria Park</b>	<b>13 December 2005</b>
<b>Town of Vincent</b>	<b>6 December 2005</b>
<b>City of Wanneroo</b>	<b>13 December 2005</b>

## Schedule 3 – Number of members

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Participant	Number of members
Town of Cambridge	1
City of Joondalup	2
City of Perth	1
City of Stirling	4
Town of Victoria Park	1
Town of Vincent	1
City of Wanneroo	2
Total	12

# Schedule 4 – Map of the Land





# Signing page

**EXECUTED** as an agreement

The common seal of Town of Cambridge is affixed in the presence of

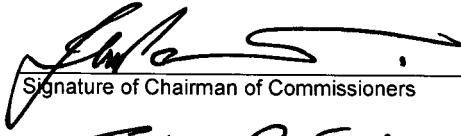
  
 Signature of Mayor **Marlene Anderton**  
 Mayor, Town of Cambridge

Name of Mayor (print)

  
 Signature of Chief Executive Officer

**GRAHAM D. PARTRIDGE**  
 CHIEF EXECUTIVE OFFICER  
 Name of Chief Executive Officer (print)

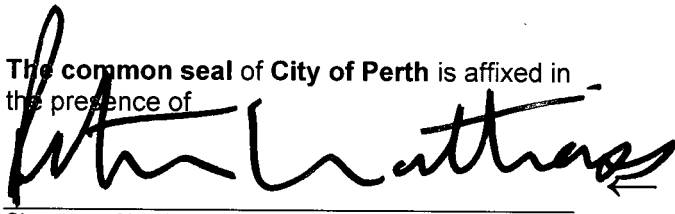
The common seal of City of Joondalup is affixed in the presence of

  
 Signature of Chairman of Commissioners  
**JOHN PATERSON**  
 Name of Chairman of Commissioners (print)

  
 Signature of Chief Executive Officer

**GARY HUNT**  
 Name of Chief Executive Officer (print)

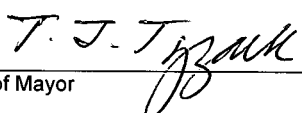
The common seal of City of Perth is affixed in the presence of

  
 Signature of Lord Mayor  
**PETER NATTALL**  
 Name of Lord Mayor (print)

  
 Signature of Chief Executive Officer

**FRANK EDWARDS**  
 Name of Chief Executive Officer (print)

The common seal of City of Stirling is affixed in the presence of

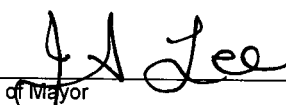
  
 Signature of Mayor  
**TERENCE JOHN TYACK**  
 Name of Mayor (print)


  
 Signature of Chief Executive Officer

**LINDSAY DEAHANTY**  
 Name of Chief Executive Officer (print)

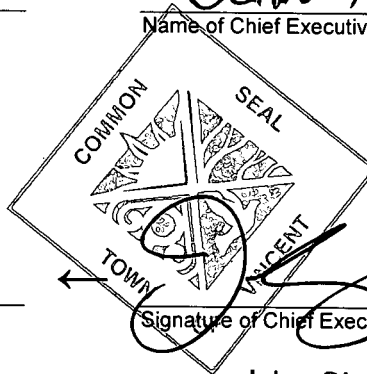
The common seal of Town of Victoria Park is affixed in the presence of

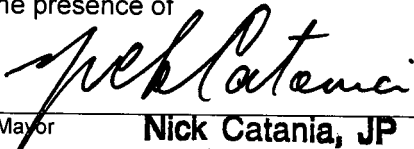



  
 Signature of Mayor  
**JOHN A.M. LEE**  
 Name of Mayor (print)

  
 Signature of Chief Executive Officer  
**JOHN M. BONKER**  
 Name of Chief Executive Officer (print)

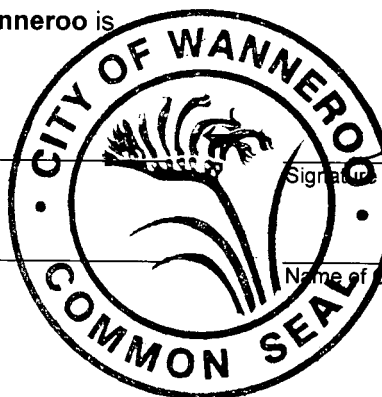
The common seal of Town of Vincent is affixed in the presence of

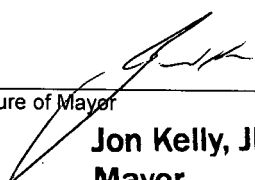


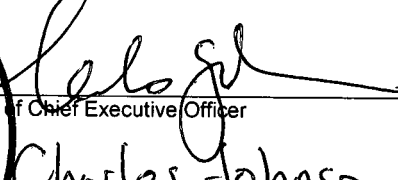
  
 Signature of Mayor  
**Nick Catania, JP  
 MAYOR**  
 Name of Mayor (print)

  
 Signature of Chief Executive Officer  
**John Giorgi, JP**  
 Name of Chief Executive Officer (print)

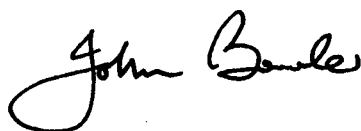
The common seal of City of Wanneroo is affixed in the presence of



  
 Signature of Mayor  
**Jon Kelly, JP  
 Mayor**  
 Name of Mayor (print)

  
 Signature of Chief Executive Officer  
**Charles Johnson**  
 Name of Chief Executive Officer (print)

Approved



**John Bowler JP MLA  
 Minister for Local Government and Regional Development**

.....24.....1:..... 2006

**Item 9.9**

**SUBJECT: APPOINTMENT OF CHIEF EXECUTIVE OFFICER**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Deputy Chief Executive Officer of City of Stirling (for CEO Group)

**Recommendation**

1. That the Council **CONSIDER** and resolve the process (as set out in the Comment section of the report) for appointment of a Chief Executive Officer to the Tamala Park Regional Council by *[date to be inserted]*.

**Report Purpose**

To advise Council of processes necessary to appoint a Chief Executive Officer to the Tamala Park Regional Council.

**Relevant Documents**

Attachments: Department of Local Government & Regional Development Guideline Number 10 - Appointing a CEO; Extract of Local Government Act; Extract of Local Government (Administration) Regulations

Available for viewing at the meeting: Not applicable

**Background**

1. The Local Government Act requires a local government to employ a person to be the Chief Executive Officer of the local government.
2. The Act sets out the functions required of the Chief Executive Officer.
3. Legislation impacting on the Chief Executive Officer appointment process has changed in 2004 and 2005.
4. A vacant appointment is required to be advertised.
5. Regulations now require details of remuneration and any other benefits to be included in advertisements.
6. A local government is to approve a process to be used for the selection and appointment of the Chief Executive Officer before advertising the position.
7. Before advertising a Chief Executive Officer position, the local government is to obtain a report from the Salaries & Allowances Tribunal containing recommendations as to the remuneration to be paid or provided to the Chief Executive Officer. These

recommendations are required to be taken into account by the local government when setting the total remuneration package.

8. The performance of the Chief Executive Officer is to be reviewed annually.
9. The appointment of a Chief Executive Officer is to be by contract, which may not be for a term longer than 5 years. However, the contract is renewable. Contracts are to set out the maximum amount payable if the contract is terminated. NB: The prescribed maximum is one (1) year's remuneration.

## **Comment**

The regulations do allow that a Chief Executive Officer position may be filled (on a part-time basis) by a person who is also employed by another local government, or may be an acting position for a term not exceeding one (1) year.

Notwithstanding the above, the Council will be required to set in motion processes for the appointment of a Chief Executive Officer, which fulfil the requirements applied in the background section above.

Attached hereto are guidelines issues by the Department of Local Government & Regional Development relative to appointing a Chief Executive Officer. The guidelines set out the principle requirements. Also attached are relevant extracts of the Local Government Act sections 5.36-5.41 and Local Government (Administrative) Regulations 18A-18E, relevant to a Chief Executive Officer appointment.

The Council should determine a time to commence its selection process. The matters that would need to be considered by the Council at a nominated ordinary meeting, or special meeting, convened for the purpose of commencing the Chief Executive Officer appointment process, are:

- A process plan and timeline for making the appointment;
- Consideration of obtaining consultant advice;
- Drafting a job description and performance measures;
- Preparation of a draft contract containing employment requirements, remuneration details and obligations of the parties on termination of the contract;
- Applying to the Salaries & Allowances Tribunal for evaluation of the position based upon the job description and performance measures;
- Setting criteria for applicants' responses and selection committee evaluation;
- Advertising of the position;
- Selection panel and process;
- Final contract negotiations; and
- Setting a commencement date.

## **Consultation/Communication Implications**

Advertising of the Council's intent to employ with details of remuneration is required.

## **Policy and Legislative Implications**

Appointments must be completed in accordance with provisions of the Local Government Act and regulations.

### **Financial Implications**

A budget for salary and costs will need to be established.

### **Strategic Implications**

The appointment of the Chief Executive Officer is pivotal in achieving the Council's objectives.

# Appointing a CEO

## LOCAL GOVERNMENT OPERATIONAL GUIDELINES

Number 10

August 2005



Department of Local Government  
and Regional Development  
Government of Western Australia

# Appointing a CEO

## 1. Introduction

1. Selecting and appointing a CEO is one of the most important tasks elected members may undertake during their term of office. Choosing the right person is critical to the success of the council and the local government.
2. It is essential that correct processes are followed so that every opportunity is given to the candidates to put the appropriate information forward so the council can choose the person most suited to the position. It is important that elected members understand that when they appoint a CEO they are entering into a contractual relationship with the CEO. A commitment to trust and good faith by both parties will lead to an effective relationship between the council and the CEO. This guideline has been developed to assist councils to conduct an effective process when selecting their new CEO.

## 2. Legislation

3. There are three sections of the *Local Government Act 1995* (the Act) that have direct application to the appointment of a CEO. Section 5.36 of the Act requires a local government to employ a "suitably qualified" person to fill the position of CEO. Section 5.39 contains provisions for the contracts of CEOs. Section 5.40 requires that all employees are to be selected in accordance with the principles of merit and equity.
4. The principles of merit and equity refer to the process of filling vacancies whereby a thorough assessment is made of the candidates' skills, knowledge and abilities against the work related requirements of the vacancy. The process must be open, competitive and free from bias, unlawful discrimination, nepotism or patronage.
5. "*Suitably qualified*" is not defined in the legislation but the intention is not limited to academic qualifications. Through the position description and selection criteria the council needs to ensure that processes are in place to appoint the person that best meets the qualities required in terms of academic qualifications, experience, skills and knowledge.

## 3. Outsourcing the Recruitment Process

6. Depending on the size of the local government and the availability and skills of staff, outsourcing the recruitment process may be the best option.
7. Generally recruitment consultants provide a professional service and possess a wide range of knowledge and skills in staff recruitment. It is recommended that rigorous checks be conducted on any recruitment consultants before they are appointed to ensure they have the necessary skills and experience (local government recruitment experience would be beneficial) to effectively assist the council in its selection of a CEO.
8. An early decision needs to be made by council on whether it will handle the recruitment in-house or appoint a consultant to coordinate the appointment process. If a recruitment consultant is chosen, council should provide the consultant with a copy of these guidelines as part of the appointment process.

9. A recruitment consultant may be involved in the following aspects of the selection process:
  - development or review of the position description;
  - development of selection criteria;
  - drafting of the advertisement;
  - preliminary assessment of the applications;
  - final shortlisting;
  - drafting of the questions for interview;
  - coordinating interviews; and
  - finalising the contract.
10. If a decision is made to outsource the recruitment process it is imperative that the council maintains a high level of involvement in the process and enters into a formal agreement (contract) with the consultant. In order to manage the contract efficiently and ensure an effective outcome, regular contact with the consultant is required during the process.

## 4. Reviewing Necessary Documentation

11. There are two very important documents that need to be reviewed and approved by council prior to advertising the position. These are the Position Description Form and the Contract of Employment.

### 4.1 Position Description Form

12. The Position Description Form, particularly the selection criteria and performance criteria (where it is included in the Position Description Form) should be reviewed prior to advertising. The council, a committee of council or the consultant (if one is used) should undertake this task.
13. Council needs to determine what they want their CEO to do and whether the selection criteria will facilitate the appointment of a person with the appropriate set of skills. For example, it may be very important that a CEO work with diverse elements of the community such as developers, mine operators, Indigenous communities or other specific interest groups. Therefore, a selection criterion might be "*Proven ability to work and negotiate with diverse groups in the community*". If such a criteria is not included an assessment of the applicants' abilities in this area may be overlooked. This is why councils must decide when commencing the task of appointing a new CEO that the skills and qualities required are well understood and documented.
14. Selection criteria are generally classified as "essential" and "desirable". Applicants who are able to satisfy all the essential criteria should be considered for interview. If an application does not fully address the essential selection criteria the applicant should not be considered for interview. However, on occasions an application may be received where the applicant has the skills and experience which indicate a capacity to satisfy the essential selection criteria even though it is not clearly elaborated in the application. In these circumstances the application may warrant further consideration. Desirable criteria are not an essential requirement of the position. They are normally identified to attract applicants who may have a wider range of skills and experience which an employer would consider desirable.
15. Council may decide that it would be more appropriate to attract applicants with a wider range of knowledge, experience and management skills than just local government. If this is the case the selection criteria should accommodate this.



#### 4.2 Performance Criteria

16. Performance criteria are quantitative and/or qualitative measures of performance. There are two broad categories of performance criteria. Those that have general application and apply at all times and specific criteria that apply for a limited period of time. An example of the first type would be, *"Advice to council is relevant, accurate and timely."* An example of the second type of performance criteria would be, *"Calling of tenders for the new recreation centre is undertaken on time and in compliance with the law."* It is obvious that the first is always going to be required, whereas at other times the local government will not be building a new recreation centre.
17. Council may set ongoing permanent performance criteria that will be included in the contract. The successful applicant needs to be informed that performance criteria relevant to a specific project/s will also be subject to annual negotiation. These will be assessed at least once during each year.
18. In setting performance criteria, council will need to determine what it is they want their CEO to do over and above legislative requirements. Councils need to be realistic in terms of their expectations and provide appropriate resources to facilitate achievement of performance criteria. The performance criteria must be consistent with the position description and the selection criteria.
19. It is not essential that performance criteria relating to a specific project/s are identified prior to the appointment but, if not, they must be identified very soon after so that the new CEO is aware of what is required of him or her in the coming year or years.

#### 4.3. Contract of Employment

20. The council should review and amend, where necessary, the existing terms and conditions of the CEO contract before proceeding to advertise the position. In accordance with section 5.39(7) of the Act, a local government is to take into account the recommendations contained in the report of the Salaries and Allowances Tribunal as to the remuneration to be paid to a CEO.
21. It is also recommended that council obtains advice on the contract where alterations or amendments are proposed and there is the slightest doubt as to the meaning of those alterations or amendments.
22. The Department has worked with the Western Australian Local Government Association and Local Government Managers Australia to prepare a model contract. It is recommended that this model be used as the basis for the contract of employment with the new CEO. The model contract can be downloaded from the Department's website at [www.dlgrd.wa.gov.au](http://www.dlgrd.wa.gov.au).

### 5. Advertising the Vacancy

23. Ideally, the position should be advertised as widely as possible to attract the best possible field. The minimum requirement for advertising under *Local Government (Administration) Regulation 18A(1)* is for the position to be advertised in a newspaper circulating generally throughout the State.
24. Regulation 18A(2) prescribes the minimum requirements to be included in an advertisement for the position of CEO.
25. The content and context of advertisements should be carefully considered. An attractive and well constructed advertisement is more likely to attract the interest of potential candidates.
26. A comprehensive application kit comprising documentation relevant to the vacant position should be developed and provided to potential applicants on request. Reference to, and instructions on how to access the kit should be included in the advertisement.

27. Allow sufficient time within the advertisement for potential applicants to prepare and forward applications. It is recommended that the position be open for a minimum of two weeks with a definite date and time after which applications will not be considered.

### 6. Confidentiality

28. From the beginning to the conclusion of the process, absolute confidentiality must be maintained by every person involved in the selection process. This cannot be emphasised enough, as any information which finds its way into the public domain before a recommendation is made to council may well compromise the selection process.
29. Council should consider the use of a confidentiality agreement, which requires all persons involved in the selection process to agree to appropriate levels of confidentiality.

### 7. Selection and Appointment Process

30. The selection and appointment process to be applied to a CEO position must be approved by council prior to advertising as prescribed under *Local Government (Administration) Regulation 18C*.
31. Extensive consideration should be given to the overall process, especially the shortlisting, whether preliminary interviews will be conducted and whether final interviews will be with full council. Council must be very clear about the methods, techniques and questions used during the selection process.
32. It is essential that the council manages the process professionally and members involved in the process have a thorough understanding of their roles and responsibilities.
33. Council may decide to establish a committee to coordinate the preliminaries of the selection process. This committee should liaise with the employment consultant if one is appointed.
34. The respective roles of a consultant, council committee, full council and an individual elected member must be clear.
35. Applicants should be shortlisted according to their capacity to address the relevant selection criteria. Where there is a large pool of applicants, the most competitive should be shortlisted for interview. It is the responsibility of the interview panel/selection committee to determine how many applicants it will interview. Their assessment must involve detailed consideration of the applications and may involve a preliminary interview.
36. Elected members may act as referees for applicants. This most often occurs when a person already employed by the local government applies for the CEO position. When this occurs it is recommended that the member provide a written referee report prior to interview (assuming the applicant is granted an interview).
37. Elected members should declare any previous association with a potential applicant at the time of shortlisting if they are part of the interview panel/selection committee established for the purpose. Similarly, if the interviews involve the full council, the elected member should make an appropriate declaration before the interviews commence. If a member's relationship with an applicant is significant and may result in claims of nepotism or patronage, the member should exclude themselves from the selection process.
38. Where rating scales and other scoring tools are used to assess the relative performance of applicants, it is important that all elected members and other members involved in the interview understand how these are applied so they produce meaningful results. The interview panel/selection committee may also consider using psychological or other testing as part of the selection process.



## 8. Conducting the Interview

39. The interview process can be challenging for both panel members and applicants.
40. It is a practice in local government that the full council be involved with the final interview and selection. This is perfectly understandable, as all members of council have to work closely with this person and trust them. Often, all elected members feel they need to be involved in the assessment and final selection. If this does not occur it is desirable that at the very least, all members of council have the opportunity to meet the recommended applicant prior to the appointment being considered by council.
41. Applicants should be provided with at least five working days notice of the impending interview wherever possible to allow them to adequately prepare for the interview. Obviously, if you are a council in regional Western Australia and are expecting an applicant to travel, then sufficient time needs to be allowed. Interviewing over a weekend may be an option.
42. It is important to provide an environment that puts the interviewee at ease and allows them to perform at the highest possible level. In this regard, consideration should be given to environmental factors such as location and lighting etc. A well organised process will ensure that everything runs smoothly.
43. The importance of the chairperson in managing the interview process cannot be overstated. The chairperson is responsible for ensuring that the interview is managed efficiently and effectively.
44. Ideally, all elected members who are to be in attendance at the final interview should be involved in planning the interview process. Each applicant must be subject to the same assessment method, ie interview questions, tests etc. It is quite acceptable for the panel to ask additional questions to clarify a point or tease out further information during the interview.
45. It is not necessary for all elected members to have the opportunity to ask a question. Often, it is best to allocate the questions to a small group of elected members (maximum 3) which ensures consistency of approach.
46. At the conclusion of the interview it is appropriate to provide the applicant with an opportunity to clarify any issues with the panel/selection committee.

## 9. Making a Decision

47. The council should not make a decision to appoint an applicant until all available information has been considered. This includes, but is not limited to, assessment of interview performance, quality of application, referee reports, copies of reports written by the applicant and the results of any psychological or other tests (if used).
48. The council must be satisfied regarding the claims by the applicant about their relative experience and qualifications. Local Government (Administration) Regulation 18E makes it an offence for a person to provide false information relating to their academic qualifications.
49. Given the importance of the position of CEO, a police clearance should be sought.
50. Referee reports are an important part of the process and should be in writing and address the relevant selection criteria for the position.
51. The council may source a referee who is not one nominated by an applicant, providing they advise the applicant of their intention to do so.

52. In the event that a referee who was not nominated by the applicant provides a report that contains negative comments, the applicant should be given the opportunity to respond to any such comments.

## 10. Finalising the Appointment

53. Eventually, after considering all the information available to it, the interview panel/selection committee then has to make a decision on which applicant is the most suitable for appointment.
54. A selection report should be prepared for consideration by council which documents the assessment of each applicant interviewed. The report should identify the most suitable applicant and include a recommendation for appointment.
55. Following approval of the appointment by council, the successful applicant should be offered the position. The unsuccessful applicants (including those not interviewed) should be notified of the decision and offered the opportunity to seek feedback on their application or interview performance if they were granted an interview.
56. Should an unsuccessful applicant request feedback, it is recommended that the chairperson of the interview panel/selection committee provide this. If a recruitment consultant is used they can undertake this task.
57. Local Government (Administration) Regulation 18F does not allow a local government to increase the value of a CEO's remuneration and benefits in excess of those advertised when finalising the appointment. If the remuneration and benefits are to be increased prior to finalising the appointment, the position must be readvertised.
58. It is intended that this Guideline be read in conjunction with the companion document, "Gender Diversity and the Selection of CEOs and Senior Staff in Local Governments", developed by the Advisory Committee on Women in Local Government.

### ABOUT THE GUIDELINE SERIES

This document and others in the series are intended as a guide to good practice and should not be taken as a compliance requirement. The content is based on Departmental officers' knowledge, understanding, observation of, and appropriate consultation on contemporary good practice in local government. Guidelines may also involve the Department's views on the intent and interpretation of relevant legislation.

All guidelines are subject to review, amendment and re-publishing as required. Therefore, comments on any aspect of the guideline are welcome. Advice of methods of improvement in the area of the guideline topic that can be reported to other local governments will be especially beneficial.

### Further Information

For more information about this and other guidelines, contact the Local Government Support and Development Branch of the Department of Local Government and Regional Development on 9217 1500 or e-mail [lgd@dlgrd.wa.gov.au](mailto:lgd@dlgrd.wa.gov.au)

These guidelines are also available on the Department's website at <http://www.dlgrd.wa.gov.au>

**Division 4 — Local government employees**

**5.36. Local government employees**

- (1) A local government is to employ —
  - (a) a person to be the CEO of the local government; and
  - (b) such other persons as the council believes are necessary to enable the functions of the local government and the functions of the council to be performed.
- (2) A person is not to be employed in the position of CEO unless the council —
  - (a) believes that the person is suitably qualified for the position; and
  - (b) is satisfied\* with the provisions of the proposed employment contract.

*\* Absolute majority required.*

- (3) A person is not to be employed by a local government in any other position unless the CEO —
  - (a) believes that the person is suitably qualified for the position; and
  - (b) is satisfied with the proposed arrangements relating to the person's employment.
- (4) If the position of CEO of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (5) For the avoidance of doubt, subsection (4) does not impose a requirement to advertise a position before the renewal of a contract referred to in section 5.39.

*[Section 5.36 amended by No. 49 of 2004 s. 44.]*

**5.37. Senior employees**

- (1) A local government may designate employees or persons belonging to a class of employee to be senior employees.
- (2) The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.
- (3) If the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (4) For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.

*[Section 5.37 amended by No. 49 of 2004 s. 45 and 46(4).]*

**5.38. Annual review of certain employees' performances**

The performance of each employee who is employed for a term of more than one year, including the CEO and each senior employee, is to be reviewed at least once in relation to every year of the employment.

**5.39. Contracts for CEO's and senior employees**

- (1) Subject to subsection (1a), the employment of a person who is a CEO or a senior employee is to be governed by a written contract in accordance with this section.
  - (1a) Despite subsection (1) —
    - (a) an employee may act in the position of a CEO or a senior employee for a term not exceeding one year without a written contract for the position in which he or she is acting; and

**Local Government Act 1995**

**Part 5** Administration

**Division 4** Local government employees

**s. 5.39**

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- (b) a person may be employed by a local government as a senior employee for a term not exceeding 3 months, during any 2 year period, without a written contract.
- (2) A contract under this section —
  - (a) in the case of an acting or temporary position, cannot be for a term exceeding one year;
  - (b) in every other case, cannot be for a term exceeding 5 years.
- (3) A contract under this section is of no effect unless —
  - (a) the expiry date is specified in the contract;
  - (b) there are specified in the contract performance criteria for the purpose of reviewing the person's performance; and
  - (c) any other matter that has been prescribed as a matter to be included in the contract has been included.
- (4) A contract under this section is to be renewable and subject to subsection (5), may be varied.
- (5) A provision in, or condition of, an agreement or arrangement has no effect if it purports to affect the application of any provision of this section.
- (6) Nothing in subsection (2) or (3)(a) prevents a contract for a period that is within the limits set out in subsection 2(a) or (b) from being terminated within that period on the happening of an event specified in the contract.
- (7) A report made by the Salaries and Allowances Tribunal, under section 7A of the *Salaries and Allowances Act 1975*, containing recommendations as to the remuneration to be paid or provided to a CEO is to be taken into account by the local government before entering into, or renewing, a contract of employment with a CEO.

*[Section 5.39 amended by No. 49 of 2004 s. 46(1)-(3).]*

**5.40. Principles affecting employment by local governments**

The following principles apply to a local government in respect of its employees —

- (a) employees are to be selected and promoted in accordance with the principles of merit and equity;
- (b) no power with regard to matters affecting employees is to be exercised on the basis of nepotism or patronage;
- (c) employees are to be treated fairly and consistently;
- (d) there is to be no unlawful discrimination against employees or persons seeking employment by a local government on a ground referred to in the *Equal Opportunity Act 1984* or on any other ground;
- (e) employees are to be provided with safe and healthy working conditions in accordance with the *Occupational Safety and Health Act 1984*; and
- (f) such other principles, not inconsistent with this Division, as may be prescribed.

**5.41. Functions of CEO**

The CEO's functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;
- (b) ensure that advice and information is available to the council so that informed decisions can be made;
- (c) cause council decisions to be implemented;
- (d) manage the day to day operations of the local government;
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions;
- (f) speak on behalf of the local government if the mayor or president agrees;

**Local Government Act 1995**

**Part 5** Administration

**Division 4** Local government employees

**s. 5.42**

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- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

**18. Procedures at electors' meetings — s. 5.31**

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

**18A. Advertisement for position of CEO or senior employee — s. 5.36(4) and 5.37(3)**

- (1) If a position of CEO, or of senior employee, of a local government becomes vacant, the local government is to advertise the position —

- (a) on a notice board exhibited to the public at the local government's offices, if the position is —
    - (i) to be filled on a part time basis by a person who is also employed by another local government; or
    - (ii) an acting position for a term not exceeding one year; or
  - (b) otherwise, in a newspaper circulating generally throughout the State.
- (2) An advertisement referred to in subregulation (1) is to contain —
- (a) the details of the remuneration and benefits offered;
  - (b) details of the place where applications for the position are to be submitted;
  - (c) the date and time for the closing of applications for the position;
  - (d) the duration of the proposed contract;
  - (e) contact details for a person who can provide further information about the position; and
  - (f) any other information that the local government considers is relevant.

*[Regulation 18A inserted in Gazette 31 Mar 2005 p. 1037-8;  
amended in Gazette 19 Aug 2005 p. 3872.]*

**18B. Matters to be included in contracts for CEO's and senior employees — s. 5.39(3)(c)**

For the purposes of section 5.39(3)(c), a contract governing the employment of a person who is a CEO, or a senior employee, of a local government is to provide for a maximum amount of money (or a method of calculating such an amount) to which the person is to be entitled if the contract is terminated before the expiry date, which amount is not to exceed whichever is the lesser of —



**r. 18C**

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- (a) the value of one year's remuneration under the contract;  
or
- (b) the value of the remuneration that the person would have been entitled to had the contract not been terminated.

*[Regulation 18B inserted in Gazette 13 May 2005 p. 2086.]*

**18C. Selection and appointment process for CEO's**

The local government is to approve a process to be used for the selection and appointment of a CEO for the local government before the position of CEO of the local government is advertised.

*[Regulation 18C inserted in Gazette 31 Mar 2005 p. 1038.]*

**18D. Local government to consider performance review on CEO**

A local government is to consider each review on the performance of the CEO carried out under section 5.38 and is to accept the review, with or without modification, or to reject the review.

*[Regulation 18D inserted in Gazette 31 Mar 2005 p. 1038.]*

**18E. Offence to give false information in application for employment with local government**

A person must not, in connection with an application for the position of CEO of a local government —

- (a) make a statement, or give any information, as to academic, or other tertiary level, qualifications held by the applicant that the person knows is false in a material particular; or
- (b) make a statement, or give any information, as to academic, or other tertiary level, qualifications held by the applicant which is false or misleading in a material particular, with reckless disregard as to whether or not

the statement or information is false or misleading in a material particular.

Penalty: \$5 000.

*[(2) repealed]*

*[Regulation 18E inserted in Gazette 31 Mar 2005 p. 1038-9;  
amended in Gazette 19 Aug 2005 p. 3872.]*

**Item 9.9A**

**SUBJECT: APPOINTMENT OF ACTING CHIEF EXECUTIVE OFFICER**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Chairman of the CEO Group (Mr L Delahaunty - Chief Executive Officer, City of Stirling)

**Recommendation**

1. That the Council **APPOINT** Mr R A Constantine Acting Chief Executive Officer for the Tamala Park Regional Council for a period of 6 months.
2. That the required advertising of the appointment and gross remuneration rate (\$163,394 per annum) be **ADVERTISED** as required.
3. That the **Scope of Functions and Duties** and performance measures, as set out in the attachment to this report, **APPLY** to the appointment.

**Report Purpose**

To recommend appointment of an Acting Chief Executive Officer of the Tamala Park Regional Council to facilitate ongoing Council business.

**Relevant Documents**

Attachments: Scope of Functions and Duties for Chief Executive Officer Tamala Park Regional Council; Performance Measures

Available for viewing at the meeting: Not applicable

**Background**

1. Matters affecting Lot 118 Mindarie have generally been coordinated by a group comprising the CEO representatives of the 7 owner local authorities.
2. The owner group has met on a regular basis to respond to matters arising, such as:
  - Zoning of the land under the Metropolitan Region Scheme
  - The State Government's Bush Forever policy
  - Telecommunication tower lease matters
  - Requests for contributions to roads and surrounding infrastructure
  - Relationship issues, particularly with adjoining landowners and the Mindarie Regional Council
  - State agency issues, particularly those relating to planning of infrastructure in the northern corridor, lot production to meet future demands
  - Land assembly matters for future conservation reserves
  - Etc

3. A significant matter, in recent times, has been the evaluation of the possibilities of the developable portion of Lot 118 Mindarie. This has led to research into a variety of options for dealing with the land for benefit of the owner local authorities.
4. Following a determination by owner local governments to form a Regional Council to manage development of approximately 165 hectares of Lot 118 Mindarie, focus has been directed to completing legal processes to establish the Council. These have culminated in approval of the Council in February 2006.
5. Much of the work involved in the issues described in clauses 3 and 4 above, have been undertaken in detail by officers at City of Stirling on behalf of the CEO Group.

Particularly, Rod Constantine (the Deputy Chief Executive Officer, City of Stirling) and Kylie Brock-Jeffs (Executive Assistant to Deputy Chief Executive Officer, City of Stirling) have been assigned operational matters and completion of negotiations on the issues outlined in clauses 3 and 4 above.

6. The CEO Group representing the 7 owner local authorities have considered that the team that has been providing the work engine for Lot 118 Mindarie issues should be maintained for a period of time to set up the Tamala Park Regional Council.
7. The CEO Group, at a meeting held on 20 February 2006, resolved to recommend to the Tamala Park Regional Council the appointment of Mr R Constantine (Deputy Chief Executive Officer, City of Stirling) as Acting Chief Executive Officer as Tamala Park Regional Council, for a period of 6 months. The CEO Group considered that this would allow work of the Regional Council to proceed and for the Council to decide a way forward with the appointment of a Chief Executive Officer, under contract.
8. The Local Government Act provides that an existing employee of a local government may be appointed, on a part time basis, to the position of Chief Executive Officer of a local government and a person may be appointed to an Acting position of Chief Executive Officer for a term not exceeding one (1) year.
9. In the case where an appointment of an Acting Chief Executive Officer is made, the conditions of appointment must be advertised on the noticeboard of the local governments' offices (in this instance, advertising would be required at 7 local governments).

## **Comment**

The CEO Group has considered that Mr R Constantine is an appropriate appointment. The package appointment costs for Mr R Constantine would be at the rate of \$163,394 per annum (\$83 per hour) and for K Brock-Jeffs (\$28 per hour).

Time booked work is currently being reimbursed to City of Stirling, at the above rates, which reflect current package remuneration rates.

Mr Constantine is currently contracted to City of Stirling until 8 July 2006 and it would be anticipated that time allocation to Tamala Park Regional Council matters would be proportionate until that time.

Mr Constantine has been involved with Lot 118 Mindarie issues over a long period of time.

Included in that involvement is the following:

- Negotiation for the initial purchase of Lot 118 Mindarie
- Assisting the establishment of the Mindarie Regional Council
- Undertaking feasibility studies for the urban development of Lot 118 Mindarie
- Development of financial scenarios that were instrumental in substantiating:
  - Economic benefit of a retention of a land lease as proposed to sale of land to Mindarie Regional Council;
  - Benefits for retention and development of the urban land at Tamala Park by the seven local government owners in preference to a variety of joint venture proposals put by private industry.
- In respect of Bush Forever:
  - Creating strategy to settle Bush Forever boundaries and optimise outcomes for owners in the form of retention of valuable land;
  - Negotiating area agreements with the WAPC;
  - Formulating Negotiated Planning Solution involving various land parcels within Lot 118 Mindarie;
  - Securing values and an agreed compensation amount of \$16M, payable in 2005/06 for urban land transferred, as part of Bush Forever agreements.
- In respect of Mindarie Regional Council new lease:
  - Negotiated particulars of the recent reduction in lease area, increasing lease rental and inclusion of good neighbour provisions to facilitate the Mindarie Regional Council and Tamala Park Regional Council working in harmony.
- In respect of the establishment of the Tamala Park Regional Council:
  - Coordinated the development of the Establishment Agreement through to the approval process.
- Instructing and working with consultants for structure planning Lot 118 urban land west of Marmion Avenue.

Mr Constantine is highly skilled in financial management, feasibility studies and is known to, and respected by, the larger land development organisations, that are potential contractors or project managers to/for Tamala Park Regional Council.

Additionally, Mr Constantine has been operating at an Executive level at City of Stirling in finance and general management and has been Deputy Chief Executive Officer, over a long period of time. He is fully versed in all aspects of Local Government.

He is qualified to be both a Chief Executive Officer and City Treasurer of local government organisations.

### **Consultation/Communication Implications**

In the event of an Acting appointment advertising of the appointment and remuneration conditions would be required.

### **Policy and Legislative Implications**

Appointments must be completed in accordance with provisions of the Local Government Act and regulations.

### **Financial Implications**

A budget for salary and costs will need to be established.

## **Strategic Implications**

The appointment of the Acting Chief Executive Officer is pivotal in achieving the Council's objectives.

## **SCOPE OF FUNCTIONS AND DUTIES**

### **CHIEF EXECUTIVE OFFICER TAMALA PARK REGIONAL COUNCIL**

1. Functions as set out in the Local Government Act are as follows:
  - a) Advise the Council in relation to the functions of a local government under this Act and other written laws;
  - b) Ensure that advice and information is available to the Council so that informed decisions can be made;
  - c) Cause Council decisions to be implemented;
  - d) Manage the day to day operations of the local government;
  - e) Liaise with the Mayor or President on the local government's affairs and the performance of the local government's functions;
  - f) Speak on behalf of the local government if the Mayor or President agrees;
  - g) Be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);
  - h) Ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
  - i) Perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.
2. More specifically:
  - 2.1 Ensure compliance with the Local Government Act and Regulations and Tamala Park Regional Council local laws;
  - 2.2 Draft local laws for consideration as necessary for the effective operation of the Tamala Park Regional Council corporation
  - 2.3 Be responsible for satisfactory completion of the Tamala Park Regional Council annual compliance return for the Department of Local Government & Regional Development
  - 2.4 Prepare agendas for matters that must be brought before the Council and ensure legal decision-making; and
  - 2.5 Keep the Council apprised of legislation and policies that affect statutory obligations and opportunities available to the Council.
3. Specifically in reference to initial operations and establishment of the Tamala Park Regional Council:
  - 3.1 Setup financial reporting system to:
    - 3.1.1 Satisfy the statutory reporting functions set out in the Local Government Accounting Regulations;
    - 3.1.2 Complete ABN requirements and ensure completion of required returns and rebate claims relative to GST; and
    - 3.1.3 Compile the annual Financial Report for the Tamala Park Regional Council.
  - 3.2 Set up and monitor performance-reporting procedures to ensure economic and productive efficiency.
  - 3.3 Set up Records Management Policy, as required by the State Archives Act.

- 3.4 Set up Purchasing policies appropriate for the Tamala Park Regional Council (envisaged contracts of \$160M expenditure and \$300M sales over 3-4 years).
- 3.5 Develop a Risk Management Policy appropriate to the Councils' operations.
- 3.6 Develop investment policies as required by regulations.
- 3.7 Manage consultancies and contracts for (principally):
  - 3.7.1 Town planning;
  - 3.7.2 Engineering;
  - 3.7.3 Surveying;
  - 3.7.4 Marketing;
  - 3.7.5 Ethnographic;
  - 3.7.6 Project management;
  - 3.7.7 Accounting;
  - 3.7.8 Audit; and
  - 3.7.9 Valuation services.
- 3.8 Maintain liaison with:
  - 3.8.1 Seven local authority participants of the Tamala Park Regional Council
  - 3.8.2 Mindarie Regional Council
  - 3.8.3 City of Wanneroo
  - 3.8.4 Department for Planning & Infrastructure
  - 3.8.5 Department of Local Government; Fisheries & Regional Development;
  - 3.8.6 The West Australian Planning Commission;
  - 3.8.7 The Department of Land Information;
  - 3.8.8 Other Government Departments (as necessary);
  - 3.8.9 Surrounding landowners and communities;
  - 3.8.10 The land development, land sales and land marketing communities.
- 3.9 Coordinate the preparation of the Future Plan, required pursuant to the Local Government Act.
- 3.10 Prepare budgets for expenditure and revenue that meet legal requirements and reflect the business objectives of the Council.
- 3.11 Public consultation
  - 3.11.1 Ensure ongoing consultation with stakeholders of the Tamala Park Regional Council and, in particular, the local communities surrounding the Tamala Park Regional Council land development operations.



**CHIEF EXECUTIVE OFFICER – TAMALA PARK REGIONAL COUNCIL**  
**PERFORMANCE MEASURES/INDICATORS**

<b><u>AREAS OF RESPONSIBILITY</u></b>	<b><u>MEASUREMENT</u></b>	<b><u>COMMENTS</u></b>	<b><u>Acceptable</u></b>	
			<b><u>Yes</u></b>	<b><u>No</u></b>
<b><i>LEADERSHIP SKILLS</i></b>				
<ul style="list-style-type: none"> <li>Leads through Vision and Strategy</li> </ul>	Communicates an exciting future vision for the organisation, creating innovative strategies, establishing challenging performance goals, and generating innovative solutions and learning.			
<ul style="list-style-type: none"> <li>Leading Change</li> </ul>	Effectively identifies both opportunities and needs for change. Demonstrates commitment to move forward with projects and motivate stakeholders to action as necessary. Can mobilise people to take action. Is candid and forthright with customers.			
<ul style="list-style-type: none"> <li>Delivering Results</li> </ul>	Focusing on the right priorities, making timely decisions, and delivering on short and long term commitments.			
<ul style="list-style-type: none"> <li>Judgement</li> </ul>	Makes sound and well-reasoned decisions, taking into consideration quantitative and qualitative information, but also the long-term implications of the decision.			
<ul style="list-style-type: none"> <li>Demonstrates Integrity and Character</li> </ul>	Exhibiting the highest standards of integrity and judgement, being open and direct, acting with courage, building credibility and trust.			
<ul style="list-style-type: none"> <li>Motivating and Developing People</li> </ul>	Building positive and empowering work environments, hiring and promoting the best people, leveraging teamwork and diversity, placing priority on people development.			

<b><u>AREAS OF RESPONSIBILITY</u></b>	<b><u>MEASUREMENT</u></b>	<b><u>COMMENTS</u></b>	<b><u>Acceptable</u></b>	
			<b>Yes</b>	<b>No</b>
<b><i>MANAGEMENT SKILLS</i></b>				
<ul style="list-style-type: none"> <li>Resource Management</li> </ul>	Resources are effectively managed within allocated levels and in accordance with organisational policies. Actively challenges the status quo to optimise the physical, financial and human resource requirements of the Corporation. Ensures the effective use of technology within the Corporation.			
<ul style="list-style-type: none"> <li>Change Management</li> </ul>	Change is seen as a normal business activity.			
<ul style="list-style-type: none"> <li>Relationship Management</li> </ul>	Effective working relationships are maintained: <ul style="list-style-type: none"> <li>Internally with participant Council representatives;</li> <li>Externally with customers and stakeholders.</li> </ul> Understands boundaries of the role and acts in accordance with the Code of Conduct.			
<ul style="list-style-type: none"> <li>Process Management</li> </ul>	Responses are timely, well researched, documented and based on relevant data.			
<ul style="list-style-type: none"> <li>Communications Management</li> </ul>	Fosters a culture of open communications with participant Councils and participant Council representation. <ul style="list-style-type: none"> <li>Externally with customers, the community and other stakeholders.</li> </ul> Maintains confidentiality when required.			

<b><u>AREAS OF RESPONSIBILITY</u></b>	<b><u>MEASUREMENT</u></b>	<b><u>COMMENTS</u></b>	<b><u>Acceptable</u></b>	
			<b>Yes</b>	<b>No</b>
<b><i>CORPORATE RESPONSIBILITIES</i></b>				
<ul style="list-style-type: none"> <li>Reporting</li> </ul>	Advice provided is in accordance with legislative requirements. Reports provide complete information for decision-making, are accurate, balanced, logical, and submitted in agreed timeframe.			
<ul style="list-style-type: none"> <li>Operational Planning</li> </ul>	Leads and manages preparation of the Council's Regional Corporations Corporate Plan. Preparation of the annual budget.			
<ul style="list-style-type: none"> <li>Business Plan Outcomes/ Budget Management</li> </ul>	Monitors and reports on the Regional Corporation's agreed goals and within budget. Performance targets are met. Project delivery is achieved on time and on budget.			
<ul style="list-style-type: none"> <li>Human Resource Responsibilities</li> </ul>	Annual performance reviews of staff are completed in line with required timelines. Training and development opportunities are identified and agreed training is implemented. Poor performance is confronted promptly and effectively.			
<ul style="list-style-type: none"> <li>Functional Expertise</li> </ul>	Helps employees understand how their contributions impact the broader organisation. Partners with "customers" to align the Corporation's resources and efforts with the strategy of the organisation.			

<b><u>AREAS OF RESPONSIBILITY</u></b>	<b><u>MEASUREMENT</u></b>	<b><u>COMMENTS</u></b>	<b><u>Acceptable</u></b>	
			<b>Yes</b>	<b>No</b>
<b>ORGANISATIONAL COMMITMENT</b>				
<ul style="list-style-type: none"> <li>Workplace Integrity</li> </ul>	Conducts himself/herself in ways that are consistent with both the letter and the values of organisational policies and procedures.			
<ul style="list-style-type: none"> <li>Risk Management</li> </ul>	Ensures the Corporation is risk averse by maintaining probity and risk management processes.			

**Item 9.10**

**SUBJECT: COUNCIL MEMBER PRIMARY RETURNS**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Deputy Chief Executive Officer of City of Stirling (for CEO Group)

**Recommendation**

1. That the report be RECEIVED.

**Report Purpose**

To advise Council members of a specific issue relevant to the Council member primary return that is required under Section 5.75 of the Local Government Act.

**Relevant Documents**

Attachments: Local Government (Administration) Regulations 1996 Form 2 – Primary Return  
Available electronically by request: Local Government (Administration) Regulations 1996 Form 2 – Primary Return

**Background**

All local government councillors are required to complete a 'Primary Return' in order to satisfy disclosure provisions of the Local Government Act.

**Comment**

Members of Regional Councils can satisfy the primary return provisions by providing a copy of the return which was lodged with the local government from which they were nominated to the Regional Council. The only amendment to the return that will be required is to satisfy the provisions with respect to real property. The requirement is to identify property within the region covered by the Tamala Park Regional Council and any adjoining local authorities.



Local Government (Administration) Regulations 1996

Form 2

Local Government Act 1995

Local Government (Administration) Regulations 1996 [reg.22]

**PRIMARY RETURN**

Surname .....

Other name(s) .....

Office held .....

Start day .....

**1. Real Property**

Section 5.79 of the Act

Addresses	Nature of Interest

**2. Income Sources**

Section 5.80 of the Act

(a) Income from an occupation

Description of the Occupation	Name and address of employer	Description of office held	Name of the partnership

(b) Income from a trust

Name of trust	Name and address of settlor	Name and address of trustee

(c) Sources of other income

Identity of persons
Describe circumstances

3. **Trusts**

Section 5.81 of the Act

Trusts in which the relevant person holds a beneficial interest

Name of trust	Name and address of settlor	Name and address of trustee

Discretionary trusts of which the relevant person is a trustee or an object

Name of trust	Name and address of settlor	Name and address of trustee

**4. Interests and Positions in Corporations**  
Section 5.84 of the Act

Name and address of corporation	Nature of interest/ position held	Principal business (if required)

**5. Debts**  
Section 5.85 of the Act

Name of lender/creditor	Address of lender/creditor

**6. Discretionary Disclosures**  
Section 5.87 of the Act

.....  
 .....  
 .....

Signature ..... Date .....



## COUNCILLOR'S MANUAL

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Gifts or contributions to travel given, loans made, or goods or services supplied to you by two or more related bodies corporate (as defined in Corporations Law) are to be treated as having been given, made or supplied by a single corporation.

### 30 RETURNS TO BE LODGED

#### 30.1 Primary Return [s5.75]

The primary return could be described as a snap shot of a person's relevant financial interests as at the start date. The start day for council members will be the day on which they make the required declaration after having been elected. In the case of designated employees, the start date will be the day on which they become a designated employee.

Council members and designated employees must lodge with the CEO a primary return in the prescribed form within three months of the start date. CEOs must lodge their primary returns with the mayor or president.

Council members and designated employees are not required to complete a primary return if they have lodged a primary return within the previous year. For example, a council member elected at an extraordinary election less than twelve months before the May elections, if re-elected at those May elections, would not have to lodge a primary return after the May election as a return had been lodged within the past twelve months.

Similarly, council members and designated employees are not required to complete a primary return if they have ceased to be a council member or designated employee within three months of the start day. Therefore, if a council member or designated employee resigns or otherwise loses his or her position within three months of start day, no return is necessary.

A form which can be used for preparing a Primary Return is included in the "Proforma Documents" section of the Councillor's Manual.

#### 30.2 Annual Return [s5.76]

Changes that have occurred to the status of interests disclosed in a previous return (and any new financial interests obtained during the return period) must be disclosed in the annual return. This would include interests that may have been bought and sold during the return period.

The return period is the period between lodging an annual return and the previous annual or primary return. If the last return you lodged was an annual return, the return period is the twelve month period ending on 30 June in the year you are lodging the annual return.

You do not need to lodge an annual return by 31 August in any year in which you have already lodged a primary return, if your start date is after 31 March in that year.

After lodgement of the initial annual return, council members and designated employees must lodge with the CEO an annual return in the prescribed form by 31 August of each subsequent year. CEOs must lodge their annual returns with the mayor or president.

A form which can be used for preparing an Annual Return is included in the "Proforma Documents" section of the Councillor's Manual.

## COUNCILLOR'S MANUAL

### 31 FINANCIAL INTERESTS REQUIRED TO BE DISCLOSED IN RETURNS

#### 31.1 Real Property [s5.79]

Real property refers to land or things attached to land. An interest in real property is any estate, interest, right or power whatever, whether at law or in equity, in or over real property.

You are required to disclose in both the **primary return** and **annual return** the address or the particulars of title of each parcel of real property in which you had an interest and the nature of that interest.

For example, under 'Address' on the return you might write '15 Disclosure Rd, Belmont' or 'Lot 5, River View, Summertown'. A post office box number would not be adequate since the purpose is to identify the actual land or property. Only property located in your local government district or another local government district with which your local government has a common boundary must be disclosed.

Under 'Nature of Interest' you might write 'owner' 'joint owner' or 'lessee'.

In the case of the primary return, the interests in real property to be disclosed are those existing on the start day. In the case of an annual return, the interests to be disclosed are those that existed at any time during the return period as defined in item 4.2 of this part of the handbook.

You are not required to disclose your interest in real property if you have the interest only:

- in your capacity as executor or administrator of a deceased estate and you are not a beneficiary under the will, or do not have an entitlement under the intestacy; or
- in your capacity as trustee and you acquired the interest in the ordinary course of your occupation which is not related to

your duties as a council member or employee; or

- by way of security for a debt.

#### 31.2 Source of income [s5.80]

In a **primary return** you must disclose each source from which you reasonably expect to receive income during the period from the day after your start day to the next 30 June. This period will depend on whether your start day fell before or after 31 March in any year. For example, if your start day was *before* 31 March in 1998 (let us say 26 February) then your primary return would disclose income sources for the period 27 February 1998 to 30 June 1998. If your start day was *after* 31 March 1998 (let us say 4 June 1998) then your primary return would disclose income sources for the period 5 June 1998 to 30 June 1999.

In an **annual return** you must disclose each source from which income was received any time during the return period as defined in item 4.2 of this part of the handbook.

You are not required to disclose in either return the source of any income if the amount of the income received or likely to be received did not (or is not expected to) exceed \$500.

Disclosure of the source of income relating to your occupation is to include a description of your occupation and the name and address of your employer (eg public servant, Department of Local Government, 32 St Georges Terrace, Perth, WA 6000).

If you are the holder of an office, you must give a description of the office (eg Executive Chairman of the ABC Group).

If you have entered into a partnership, disclosure should include the name (if any) under which the partnership is conducted (eg Partner in Maritime Building Supplies, 5 Ocean Rd, Fremantle, WA 6160).

## COUNCILLOR'S MANUAL

Income from a source that must be disclosed is income within the meaning of the *Commonwealth Income Tax Assessment Act 1936* but does not include fees, reimbursement of expenses or allowances paid to you by the local government.

For the source of income received or likely to be received from a trust, you must disclose the name and address of the settlor and the trustee of the trust. In relation to any other income you must disclose a description sufficient to identify the person from whom, or the circumstances in which, the income was received or is likely to be received.

The address to be disclosed in relation to a person other than a corporation is the last residential or business address that you know of for the person.

In relation to a corporation, the address of the registered office or principal place of business of the corporation in the State should be disclosed. Where there is no such office or place the address of the principal office or place of business of the corporation in the place where it is incorporated should be recorded.

### 31.3 Trusts [s5.81]

A discretionary trust is a trust under which the trustee has a discretion in respect of the objects or purposes of the trust.

A settlor is the person with the responsibility for the settlement of the property under the terms of the Trust.

You must disclose in your **primary return** and **annual return** the name and address of the settlor and the trustee:

- of any trust in which you hold a beneficial interest; or
- of any discretionary trust of which you are a trustee or object,

**other than** a trust disclosed as a source of income.

In the case of a primary return, disclosure is required for those trust interests existing on the start day. In the case of an annual return, the interests to be disclosed are those that existed at any time during the return period as defined in item 4.2 of this part of the handbook.

### 31.4 Gifts [s5.82]

You are to disclose in an **annual return** a description of any gifts you received at any time during the return period as defined in item 4.2 and the name and address of the person who made each gift to you.

Gifts valued at less than \$200 need not be disclosed. However, if a gift is one of two or more gifts made by one person during the return period, and the sum of those gifts exceeds the prescribed amount, you must disclose the name and address of the person who made those gifts and a description of them.

Gifts from relatives need not be disclosed.

A relative is defined by the Act to be your parents, grandparents, brothers, sisters, uncles, aunts, nephews, nieces, lineal descendants of you or your spouse, your spouse or the spouse of any relative as defined. It does not matter whether the relationship is traced through, or to, a person whose parents were not married at the time of the person's birth or subsequently, or whether the relationship is a natural relationship (real parents) or a relationship established by a written law (adopted parents).

The value of a gift comprising property, other than money or the conferral of a financial benefit, is to be treated as being an amount equal to the value of the property or the financial benefit at the time the gift was made.

A person who is unsure of the value of a gift when completing a return will be required to estimate the value and determine whether the gift needs to be disclosed.

## COUNCILLOR'S MANUAL

A gift is defined as any disposition of property, or the conferral of any other financial benefit, made by one person in favour of another.

The disposition or conferral is made without consideration in money or money's worth passing from the person in whose favour it is made to the other, or with such consideration so passing if the consideration is not fully adequate. Property or other financial benefit received by will (whether with or without an instrument in writing) is not considered a gift for the purposes of disclosure in a return. A gift does not include any financial or other contribution to travel.

### 31.5 Contributions to travel [s5.83]

You are to disclose in an **annual return** the name and address of each person who made any financial or other contribution to any travel undertaken by you at any time during the return period as defined in item 4.2. The value of a travel contribution includes accommodation incidental to the journey.

If the contribution was other than financial, the contribution is treated as being an amount equal to the value of the contribution at the time it was made.

Contributions from Commonwealth Government, State Government or local government funds, from a relative (as defined under 5.4) or contributions made in the ordinary course of your occupation which were not related to your duties as a council member or employee need not be disclosed.

Additionally, contributions made by a political party of which you are a member (where the travel was undertaken for the purpose of party political activity or to enable you to represent the party) need not be disclosed. Political party means a body or organisation, whether incorporated or unincorporated, having as one of its objects or activities the promotion of the election to the Commonwealth or State Parliament of a candidate or candidates endorsed by it or by a body or organisation of which it forms part.

Other contributions need not be disclosed if the value does not exceed \$200 unless:

- the contribution was one of two or more contributions made by one person at any time during the return period; **and**
- the sum of those two or more contributions exceeded the prescribed sum.

### 31.6 Interests and positions in corporations [s5.84]

You are to disclose in a **primary return** and in an **annual return** the name of each corporation of which you are or were a member or in which you otherwise had an interest or held any position (whether remunerated or not). In the case of a primary return, the interests disclosed are those you held on the start day. In the case of an annual return, you must disclose any interests that you held at any time during the return period.

You must also disclose:

- the nature of the interest; or
- the description of the position held; **and**
- the corporation's address and a description of its principal business (except where the company is listed for quotation on a stock market in Australia).

An interest in a corporation means a relevant interest in any shares or debentures, any unit in any such shares or debentures and any prescribed interest made available by a corporation. A relevant interest exists where a person has entered into an agreement, has a right or has an option with respect to an issued share.

## COUNCILLOR'S MANUAL

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Corporation means any body corporate, whether formed or incorporated within or outside the State, including any 'company', 'foreign company' or 'recognised company' (as those terms are defined in the Corporations Law) but does not include:

- a body corporate that is incorporated within Australia or an external Territory and is a public authority or an instrumentality or agency of the Crown;
- a corporation sole (being a body having perpetual succession constituted in a single person);
- a society or foreign society registered under the AFIC (Western Australia) Code and authorised to operate as a credit union;
- a society registered under the *Co-operative and Provident Societies Act 1903* (such societies would be co-operative businesses established in rural towns); or
- an association, society, institution or body incorporated under the *Associations Incorporation Act 1987* (such organisations are formed for religious, cultural, sporting, political or other purposes and must not have the intent of securing a financial profit for the members).

### 31.7 Debts [s5.85]

Except where exempted you must disclose in a **primary return** and an **annual return** the name and address of each person or organisation to whom you were liable to pay any debt arising from the loan of money or the supply of goods or services.

In the case of a primary return, you must disclose the debts you held on the start day.

In the case of an annual return, you must disclose the debts you held at any time during the return period. This applies whether or not the amount to be paid, or any part of it, was due and payable on the start day or at any time during the return period.

There is no requirement for you to disclose in a return a liability to pay a debt if the amount to be paid did not exceed \$500 (*currently under review*) on the start day or at any time during the return period.

However, you must disclose the relevant details for each debt that was one of two or more debts which you were liable to pay to one person on the start day (or at any time during the return period) and the sum of the amounts to be paid exceeded \$500 (this amount is currently under review).

You need not disclose debts if they are to be paid to a relative (as defined in 5.4 of this handbook) or arise from a loan you were liable to pay to a bank, building society, credit union or other person (whose ordinary business includes the lending of money) and the loan was made in the ordinary course of the lender's business. Such debts would include housing loans, business loans and overdrafts with banks, building societies and credit unions.

In the case of debts arising from the supply of goods or services, the debts need not be disclosed if the goods or services were supplied in the period of 18 months immediately preceding the start day or were supplied during the return period. Examples of such debts would be money owing on credit or store cards, outstanding accounts for telephone etc, or the amount owed to a plumber who has undertaken work for you on your home.

Similarly debts arising from the supply of goods or services that were supplied in the ordinary course of your occupation (which is not related to your duties as a council member or employee) need not be disclosed. Examples of such debts would be a tradesman or farmer who receives goods from a supplier and is given time to pay.

## COUNCILLOR'S MANUAL

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### 31.8 Dispositions of property [s5.86]

You are to disclose in an **annual return** particulars of any dispositions of real property which occurred during the return period and by which you retained (either wholly or in part) the use and benefit of the property or the right to reacquire the property at a later time.

Additionally in an **annual return** you must disclose particulars of each disposal of real property in which you had an interest by any person other than yourself under arrangements made by you and by which disposal you obtained, either wholly or in part, the use and benefit of the property.

Disclosures need only be made for property located in the district or in an adjoining district.

Disposition of real property means any conveyance, transfer, assignment, settlement, payment or other alienation of real property, and includes:

- the creation of a trust in respect of real property;
- the grant or creation of any lease, mortgage, charge, easement, licence, power, partnership or interest in respect of real property;
- the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of any debt, contract, chose in action or any other interest in respect of real property;
- the exercise by a person of a general power of appointment over real property in favour of any other person; and
- any transaction entered into by any person with intent thereby to diminish, directly or indirectly, the value of his or her own real property and to increase the value of the property of any other person.

### 31.9 Discretionary disclosures generally [s5.87]

You may disclose in any return any direct or indirect benefits, advantages or liabilities (whether financial or not) which are not required to be disclosed under the Act. You might choose to do this if you believe that a conflict exists or might appear to exist between your private interests and your duty as a council member (or a designated employee) or for any other reason.

## 32 ACKNOWLEDGING RECEIPT OF RETURNS [S5.77]

The Act requires that the CEO, mayor or president on receipt of a return, gives the person submitting the return written acknowledgment of having received the return.

It is important that you ensure that you receive a written acknowledgment as the penalties for failing to submit a return are severe.

## 33 RETURNS TO BE KEPT IN A REGISTER [S5.88]

A CEO is to keep a register of financial interests containing all primary and annual returns lodged. Returns lodged shall be in the form of Forms 2 and 3 as prescribed in the *Local Government (Administration) Regulations 1996*.

As soon as is practicable after a person ceases to be a person who is required to lodge a return, the CEO is to remove from the register all returns relating to that person. Returns lodged and removed from the register are to be kept by the CEO for a period of at least five years after the person who lodged the return ceased to be a council member or designated employee.

## COUNCILLOR'S MANUAL

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### **34 PUBLIC ACCESS TO FINANCIAL INTEREST REGISTER [S5.94]**

Any person can attend the office of a local government during office hours and free of charge inspect the register of financial interests. A person inspecting the register may request a copy of any information in the register and the local government is to ensure that copies are made available. A charge can be made for the copies, provided it does not exceed the cost of providing the copies.

Returns removed from the register will not be available for public inspection under this section of the Act.

### **35 PENALTIES FOR FAILING TO COMPLY**

#### **35.1 Failure to lodge a return [s5.75, Ss5.76]**

Failure to lodge a primary return within three months of the start day or an annual return by 31 August in any year carries a maximum penalty of \$10,000 or imprisonment for two years.

#### **35.2 Failure to disclose information in a return [s5.78]**

Failure to comply with the requirements for disclosing information in a primary or annual return carries a maximum penalty of \$10,000 or imprisonment for two years.

#### **35.3 Offence to give false or misleading information [s5.89]**

Providing information in written form in a primary or annual return that the person knows to be false or misleading in a material particular or likely to deceive in a material way carries a maximum penalty of \$10,000 or imprisonment for two years.

### **36 OFFENCE TO PUBLISH INFORMATION IN CERTAIN CASES [S5.90]**

A person must not publish any:

- information derived from a register of financial interests unless that information constitutes a fair or accurate report or summary of information contained in the register and is published in good faith; or
- comment on the facts set forth in a register of financial interests unless that comment is fair and published in good faith.

The maximum penalty for such an offence is \$5,000 or imprisonment for one year.

The meaning of 'publish' is to be taken from the Criminal Code, which defines publishing, in the case of spoken words, as the speaking of those words in the presence and hearing of any person other than the one being spoken about.

For written text, 'publishing' is:

- the exhibiting of that text in public;
- causing it to be read or seen;
- showing or delivering it; or
- causing it to be shown or delivered with a view to its being read or seen by any person other than the one to which the text refers.

## COUNCILLOR'S MANUAL

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### 37 CONCLUDING REMARKS

The disclosures required in returns are not onerous and much of the information disclosed will be available on other public documents. Persons required to complete returns are encouraged to consider closely what must be disclosed and check to make sure that the information disclosed is correct. The penalties are severe for non-disclosure and false disclosure. However, there are no penalties for over disclosure.

Ensure that when you lodge your return you obtain written confirmation of the lodgment.



**Item 9.11**

**SUBJECT: BACKGROUND INFORMATION – TAMALA PARK REGIONAL COUNCIL**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Deputy Chief Executive Officer of City of Stirling (for CEO Group)

**Recommendation**

1. That the report be RECEIVED.

**Report Purpose**

To provide, in précis form, background to developments leading to the establishment of the Tamala Park Regional Council, and the potential for land development by the Tamala Park Regional Council.

**Relevant Documents**

Attachments: Not Applicable

Available for viewing at the meeting: Not Applicable

**Background**

**Ownership**

Lot 118 Mindarie is owned by the 7 Local Governments listed in the shares stated:

Owner	Share/Proportion
Town of Cambridge	1/12
City of Joondalup	1/6
City of Perth	1/12
City of Stirling	1/3
Town of Victoria Park	1/12
Town of Vincent	1/12
City of Wanneroo	1/6

The land was acquired in 1981 by the then Cities of Perth, Stirling and Wanneroo. In equal 1/3 shares. Restructure of the City of Perth into 4 separate Local Governments and of the old City of Wanneroo into 2 separate Local Governments has resulted in the ownership and shares stated in the Table above

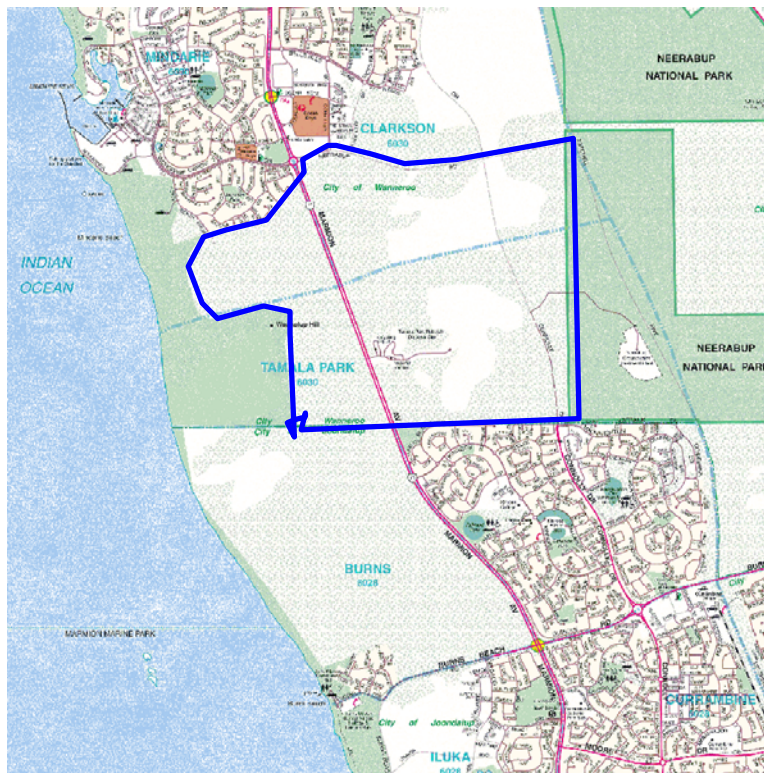
## **Location**

NW Corridor

The whole of Lot 118 comprises 432.0977 Hectares

The Subject Land is north of the suburb of Kinross and south of Mindarie Keys. It is bordered on the east by Neerabup National Park and on the West by a coastal conservation reserve.

The land is located in the Local Authority District – City of Wanneroo.



## **Background**

Lot 118 Mindarie was acquired for use as a refuse landfill site and for future urban development.

At the time of acquisition part of the land had been designated possible future open space.

In 1981 the then Cities of Perth, Wanneroo and Stirling owned the land and made strategic decisions to:

- Utilise part of the designated future POS land for a landfill for refuse.
- Invest in Road and other infrastructure to and in the site.
- Plan future use of approximately 210 hectares of the site for future Urban Development in keeping with the strategic plan for Perth development as set out in the Metropolitan Region Scheme.

Subsequently the Mindarie Regional Council was established to conduct the landfill for disposal of Refuse. An area of 252 Hectares of land was leased to the Mindarie Regional Council and the Mindarie Regional Council has conducted an environmentally sensitive, well managed refuse landfill on approximately 22 hectares of the land since 1991. The Tamala Park landfill site currently services the needs of all seven owner Local Authorities covering a community of 450,000 persons.

Mindarie Regional Council has now adopted plans to progressively move processing of all domestic putrescible waste off site to secondary waste treatment and recycling plants. Mindarie regional Council has acquired a 20 hectare industrial site at Neerabup and is currently tendering for the first secondary waste treatment plant which will have a capacity of approximately 100,000 tonnes throughput per annum.

Completed sections of the Tamala Park Landfill are now being remediated for possible future Recreational Uses and as a Bush Forever conservation site.

Processing of putrescible waste at Tamala Park will be phased out over time as Mindarie Regional Council implements its strategic planning for provision of off site secondary waste treatment plants to process all household waste from all 7 owner Local Governments. Tamala Park will continue to be used as an inert landfill site within a limited area of 22 hectares of already disturbed Land with the remaining part of the Mindarie Regional Council lease being used as a buffer to surrounding developments and being conserved and remediated under Bush Forever and site remediation plans developed in support of Bush Forever policies and as a condition of operating licenses.

The Tamala park landfill operations require a 500-metre buffer from any surrounding Development. As the nature of site use changes to phase out landfill of putrescible household waste the buffer requirement may reduce, however this will be controlled by licenses issued by the EPA and other Regulatory bodies.

Urban Development options for up to 200 hectares of the Northern section of Lot 118 have been subject of research since 1984. Kinross has been developed up to the southern boundary of lot 118. Mindarie has been developed West of Marmion Avenue down to the Northern Boundary of Lot 118. Development of Somerley is now occurring along the Northern Boundary of lot 118 East of Marmion Avenue across to the new Clarkson Rail Station.

Demand for residential land in the Northern Corridor is increasing. Lot 118 will be one of the last lots to be developed in accordance with the Metropolitan Region Planning Scheme.

The City of Wanneroo is projecting population growth of 120,000 by 2021 in the Coastal strip which includes Lot 118. The Western Australian Planning Commission is supporting and projecting development of at least 250 new residential lots per annum from 2006. Most regional infrastructure to service the land is now planned or provided including North South Regional Roads – Marmion Avenue, Connolly Drive and the Mitchell Freeway: East West Road Neerabup Drive and Clarkson Rail Station at the North East corner of the Lot.

A Structure plan for Urban Development of approximately 200 hectares was produced in 2002 formally submitted to the City of Wanneroo, the WAPC and advertising for Public Submissions. The plan suggested the development of 2,608 lots with associated school, POS and other amenities. The plan was withdrawn with the advent of Bush Forever policies being implemented by the State Government to cover part of the land subject of the draft structure plan.

Bush Forever is a State Government policy aimed at conserving significant areas of typical Bushland under conservation policies that will preserve the Bush areas for future generations. Bush Forever and Public open space and public utility reservations are proposed to cover 267 hectares of the 432 hectares of Lot 118 Mindarie.

A Negotiated Planning Solution is nearing completion with the Western Australian Planning Commission under which arrangements will be made for transfer of Bush Forever land from the current Local Authority owners to the State to be incorporated as part of a coastal conservation reserve and as an addition to Neerabup National Park. The Land transferred will come under management of the department of Conservation and Land Management. Part of the transfers proposed will include existing zoned Residential land for which the owners will receive some compensation from the State Government.

The Negotiated Planning solution will also specify the land, which will remain for urban development. This will comprise 30.48 hectares West of Marmion Avenue as an extension of the existing suburb of Mindarie and a further area of land North of the Tamala Park Landfill along the Southern boundary of Neerabup Road and the Area known as Somerley.

The WAPC and the owners' representatives have advanced negotiations to a point where it is possible to complete land transfers and payment of compensation for part of the land prior to 30 June 2006.

### ***Business Plan***

In order to deal in land, local authorities must first advertise the Business Plan.

In the case of the land issues affecting Lot 118 Mindarie, a Business Plan was advertised in April 2005 for a period of 6 weeks, covering the following:

- a) An amendment to the lease of 252 hectares of land to the MRC;
- b) A Bush Forever Negotiated Planning Solution involving transfer of land to the WAPC and payment by the Commission of compensation to the owners;
- c) Establishment of a Regional Council to develop about 165 hectares of Lot 118 and potentially receive a transfer of that land from the owners; and
- d) Development of part of Lot 118 with the eventual sale of residential land.

Subsequent to advertising, only 2 submissions were received. All 7 Councils adopted the Business Plan and resolved to proceed to implement its intent.

Progress with the Business Plan is now advanced as follows:

- a) The amendment of the Mindarie Regional Council lease is complete. The amendment has effectively reduced the lease area from 252 hectares to 151.7 hectares, releasing part of the land for transfer to the State Government in the Bush Forever Negotiated Planning Solution.

In the process, the rental for the lease to Mindarie Regional Council has been adjusted to a commercial basis, provisions have been made for the owners to recognise the ongoing business operations of the Mindarie Regional Council and for the Mindarie Regional Council to adjust its requirements for buffers for its landfill operation to accommodate the development requirements of the new Tamala Park Regional Council.

- b) The Bush Forever Negotiated Planning Solution has been completed in terms of its principle elements. Compensation amounts have been negotiated to figures that are

supported by valuations obtained for the local authority owners. The State Government is prepared to make payment of compensation prior to 30 June 2006. The compensation payments will facilitate seed capital funding for Tamala Park Regional Council operations. The Negotiated Planning Solution, under negotiation with the WAPC, will leave open opportunities for excision of minor land parcels from areas now zoned 'POS' under the Region Scheme and covered by Bush Forever policy, in the event that structure planning can demonstrate logical boundaries to facilitate this outcome.

The land areas involved in the Negotiated Planning Solution titled *Negotiated Planning Solution Outline*, following later in this report.

- c) The local authority owners have now all adopted an Establishment Agreement for a Regional Council to manage development of approximately 165 hectares of Lot 118 Mindarie. The Establishment Agreement has been approved, as required under the Local Government Act.
- d) Structure planning of land west of Marmion Avenue has commenced and a subdivision concept has been reviewed on an ongoing basis by Planning Officers from participant Councils and also by the Department for Planning & Infrastructure.

A structure plan for the whole of Lot 118 Mindarie was prepared in 2002 but was abandoned following initial consideration by both the City of Wanneroo and the Department for Planning & Infrastructure. In keeping with the expressed objectives of the Tamala Park Regional Council, all current instructions for structure planning follow best practice guidelines and must proceed in reference to the City of Wanneroo Smart Growth criteria, Liveable Neighbourhoods, and other contemporary policies.

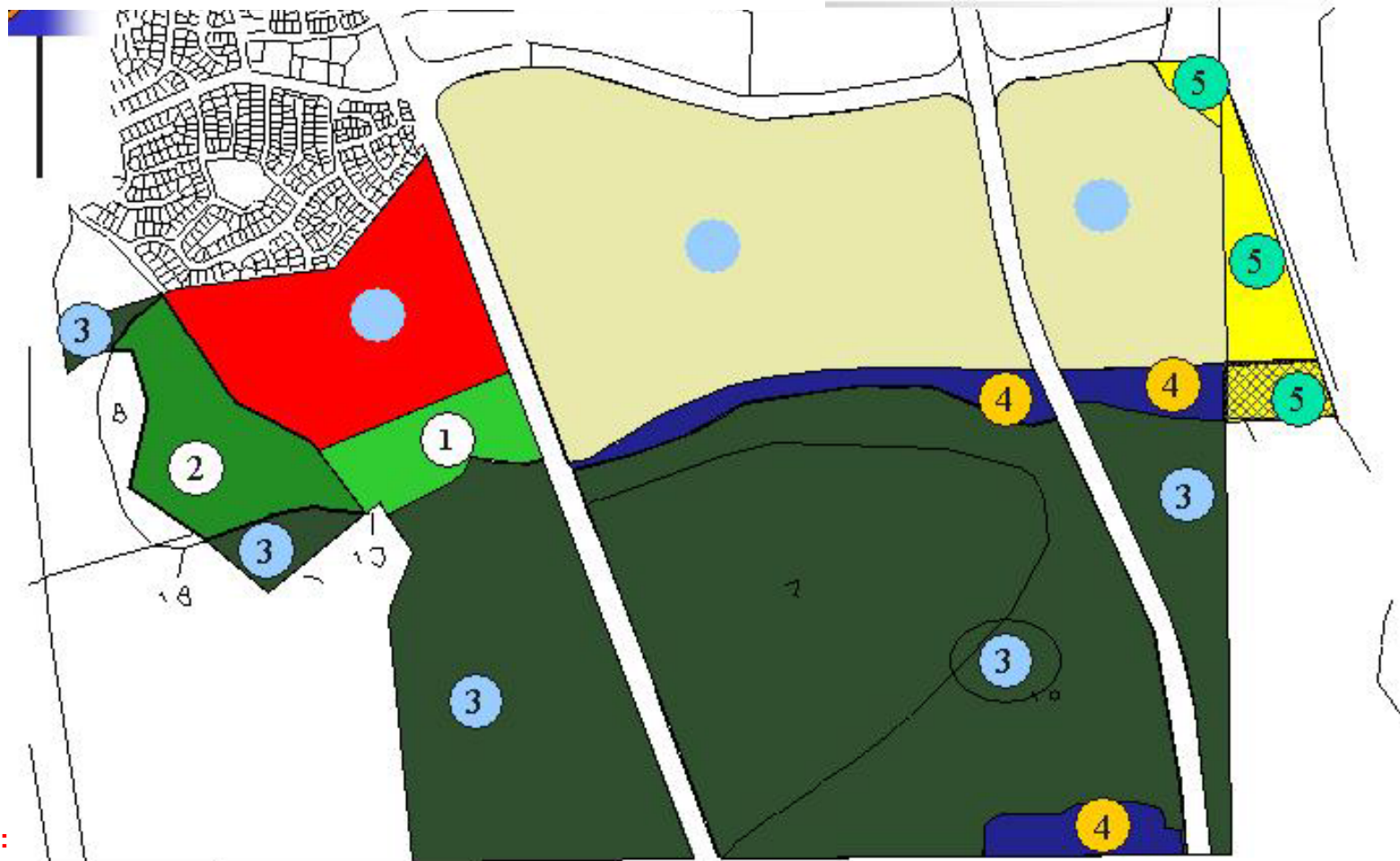
Consultants have been engaged to complete the subdivision design and structure plan report for early consideration by the Tamala Park Regional Council. If approved by the Council, the structure plan can then be submitted for formal consideration by the City of Wanneroo and the WAPC.

The structure plan will be built upon the subdivision design shown on the following page.





### Negotiated Planning Solution Outline



**Notes:**

- The Government will pay approx \$16.09M for 109 hectares representing the items numbered 1, 2, 3 but excluding the (3) circled.
- Blue (not numbered) dot areas (165 hectares) will be available for development.
- Items numbered 4 (16-20 hectares) will be subject to negotiation for excision from POS.
- Items numbered 5 will be available for acquisition by the joint landowners offsetting compensation payments.
- Area 3 (circled) to remain with joint owners to secure continuing Tamala Park operation.

## **Comment**

On a progressive basis, individual Councils have received reports outlining progress with all of the matters mentioned above.

The Councils have formulated an Establishment Agreement, which provides that compensation for land transfers, as part of a Bush Forever settlement with the State Government, will provide initial funding for development works for the creation of urban environments.

It is confidently expected that funding from compensation payments will enable the Council to proceed through all development phases without any call for funds upon individual participant Councils.

Extensive cash flow modelling has been undertaken to demonstrate viability of urban development within Lot 118 Mindarie.

Options for undertaking development utilising project managers or through direct management of contracts by the Tamala Park Regional Council had been researched and a substantial amount of information about options is available for report to, and consideration by, the Tamala Park Regional Council.

The State Government in its planning projections for northern corridor lot production is anticipating urban development in Lot 118 Mindarie from 2006 onwards.

Pressure for urban lots in the northern corridor is substantial and, depending upon the business case established by the Tamala Park Regional Council, could facilitate completion of the total urban development possible in the range 7-12 years.

The development of the Tamala Park Regional Council future plan will enable strategies and targets to be set to scope the urban development of Lot 118 Mindarie and to project the economic and social returns that will be enjoyed by new residents in the subdivisions created and by the communities of the participant local authorities through the substantial revenue flows that will occur as a result of development activity.



**Item 9.12**

**SUBJECT: MEETING ARRANGEMENTS**

**Report Information**

Location: Not Applicable

Applicant: Not Applicable

Reporting Officer: Deputy Chief Executive Officer of City of Stirling (for CEO Group)

**Recommendation**

1. That meeting arrangements as outlined in the report be **ENDORSED**.

**Report Purpose**

To seek agreement to meeting arrangement items.

**Relevant Documents**

Attachments: Council Meeting Question Time Form and Guidelines; Disclosure of Interest Form; Elected Members Gift Register Form.

Available for viewing at the meeting: Not Applicable

**Background**

Councils require agreement on certain arrangements surrounding successful meeting protocol.

The following is advanced for Council consideration:

1. Council agendas to be issued on Monday for Thursday meetings.
2. Agendas and minutes to be issued in electronic form.
3. Copies of agendas to be directed to each Council's administrative nominee for printing for Council and staff members, as required.
4. Publication of minutes be made on a Tamala Park Regional Council website.
5. Recording of Council proceedings be made for the purpose of minute accuracy and obtaining detail of any questions from the public.
6. Use of a Council Meeting Question Time form and guidelines (refer attached).
7. Use of a Disclosure of Financial Interest and Interests Affecting Impartiality Register in the form attached.
8. Use of an Elected Members Gift Register (refer attached).
9. Alphabetical sequence will be used in referring to participant Council members.

**Comment**

Procedures as suggested can be made operational from the next Council meeting.

### **Consultation/Communication Implications**

Structure for questions at Council meetings will ensure opportunities for the public to have matters addressed and answered.

### **Policy and Legislative Implications**

Settling the form for declaring interests and gifts will comply with legislative requirements.



TAMALA PARK  
REGIONAL COUNCIL

## COUNCIL MEETING QUESTION TIME

Please hand this form to a staff member before the meeting.

Name: .....

Address: .....

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Item number on agenda: .....

Question(s)

*Please present your questions below.*

*Statements and comments will not be accepted.*

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Signature .....

## **PROCEDURE FOR QUESTION TIME AT COUNCIL MEETINGS**

Welcome to the Council meeting. The meeting agenda (and committee minutes) are available and will assist you to following the proceedings. Should you require assistance with these documents, please raise the attention of an officer.

A copy of the guiding principles for addressing committee meetings may be found at the entrance to the Council Chamber. These principles are consistent with guidelines prepared by the Department of Local Government and Regional Development.

Conducted before any other business, Question Time is the first item on the agenda. The procedure for addressing the Council is as follows:

### ***Questions raised at the meeting:***

1. The reverse side of this form requires indication of an item number. This can be found in the copy of the agendas provided in the gallery. If the matter, which you wish to raise, is listed on the agenda please quote the item number. If the matter is not listed on the agenda please indicate the subject matter in the space provided.
2. Written questions are preferred (see reverse) and this form should be handed to a staff member who will give it to the person presiding at the meeting.
3. The Chairman will make an opening statement and then ask the Chief Executive Officer to read aloud any written questions in the order in which they were received.
4. Following this, the Chairman will ask if any member of the public wishes to ask a verbal question. If so, the Chairman will request that you speak from the microphone located at the front of the gallery.
5. Questions may be answered verbally or, alternatively, if the answer is not known or requires further research or detail, then a response will be supplied in writing direct to the individual and a copy of the questions and answers will be printed on the next agenda.
6. Statements or general comments will not be accepted, as this time is dedicated for questions only. Public question time is provided for questions only and does not allow extensive statements to be made.
7. Statements on specific items can be made at Committee meetings.

### ***Questions raised before the meeting:***

Persons are requested to submit questions to the Chief Executive Officer 48 hours before a Council meeting. This will ensure a response will be provided at the meeting.

The Council thanks you for your participation and trusts that your observation of its meeting will be interesting and will demonstrate that it is working towards the well being of the total Region and its residents.

### **PLEASE NOTE:**

1. All resolutions of this Council meeting are subject to confirmation at the next meeting of Council.
2. An audio recording is made of all Council meetings for administrative purposes only.



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