

**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF CAPEL**

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**STANDING ORDERS LOCAL LAW 2007**

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**LOCAL GOVERNMENT ACT 1995**

**SHIRE OF CAPEL**

**STANDING ORDERS LOCAL LAW 2007**

Under the powers conferred upon it by the *Local Government Act 1995* and all other powers enabling it the Council of the Shire of Capel resolved on 11<sup>th</sup> April 2007 to make the following local law.

**Part 1 - Preliminary**

**1.1 Citation**

- (1) This Local Law may be cited as the *Shire of Capel Standing Orders Local Law 2007*.
- (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 Interpretation**

- (1) In these Standing Orders unless the context otherwise requires:-
  - "absolute majority" in relation to a Council means a majority comprising enough of the members for the time being of the Council for their numbers to be more than 50% of the number of offices (whether vacant or not) of members of the Council;
  - "CEO" means the Chief Executive Officer or Acting Chief Executive Officer for the time being of the Shire of Capel;
  - "clause" means a clause of these Standing Orders;
  - "committee" means any committee established in accordance with the provisions of the Act;
  - "Council" means the Council of the Shire of Capel;
  - "employee" means a person employed by the Shire of Capel in accordance with the Act;
  - "Member" means the President or a Councillor of Council or in the case of a Committee, a member of the Committee appointed in accordance with the Act;
  - "Minister" means the Minister responsible for administering the Act;
  - "President" includes:-
    - (a) in the absence of the President, the Deputy President; and
    - (b) if the President or Deputy President are not available or are unable to perform the functions of the President, a Councillor chosen from those present;
  - "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; and  
“substantive motion” means an original motion or an original motion as amended, but does not include an amendment or a procedural motion.

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- (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.

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#### **1.4 Repeal**

The Local Laws Relating to Conduct of Proceedings and Business of Council of the Shire of Capel published in the *Government Gazette* on 30 December 1997 is repealed.

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

#### **2.1 Calling Council Meetings**

The calling of Ordinary and Special Meetings of the Council is dealt within the Act.

#### **2.2 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 Council or a committee.

#### **2.3 Notice of Meeting and Notice of Adjournment**

- (1) The giving of notice of meetings of the Council is dealt within the Act and the giving of public notice of meetings is dealt within the Regulations.
- (2) The manner in which documents can be given to a person is dealt within the Act and the *Interpretation Act 1984*.
- (3) When a meeting is adjourned to a day and hour other than the next ordinary meeting, notice of the resumption of the adjourned meeting, if time permits, is to be given to each member specifying the nature of the business to be transacted.

#### **2.4 Calling Ordinary and Special Meetings of Committee**

- (1) The CEO is to convene an ordinary meeting of a committee, by giving each member of the committee at least 72 hours notice of the date, time and place of the meeting and an agenda for the meeting by facsimile, letter or electronic mail.
- (2) The CEO is to convene a special meeting of a committee by giving each member notice, before the meeting, of the date, time, place and purpose of the meeting.
- (3) In convening a special meeting of a committee, there is no minimum period of notice to be given and notice can be given by telephone, facsimile, letter, electronic mail or orally in person.

## 2.5 Failure to Receive Notice Not to Invalidate Proceedings

Failure to receive a notice of meeting shall not affect the validity of any meeting provided reasonable steps have been taken to serve such notice.

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### Part 3 - Business of the Meeting

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

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(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.

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(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.

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(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.

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(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.

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#### 3.2 Order of Business

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(1) Unless otherwise decided by the Council the order of business at any ordinary meeting of the Council is to be as follows:-

- Declaration of Opening/Announcement of Visitors;
- Record of Attendance/Apologies /Leave of Absence (Previously Approved);
- Response to previous Public Questions taken on notice;
- Public Question Time;
- Applications for leave of absence;
- Declarations of interest;
- Notice of items to be discussed behind closed doors;
- Confirmation of Minutes;
- Announcements by Person Presiding without discussion;
- Petitions/Deputations/Presentations;
- Motions of which previous notice has been given;
- Questions of which previous notice has been given;
- Environmental Health Services Reports;
- Planning and Development Services Reports;
- Operational Services Reports;
- Finance and Community Services Reports;
- New business of an urgent nature introduced by decision of Meeting:
  - (a) Members,
  - (b) Employees;
- Public Question Time – second period of public question time;
- Motions without notice by absolute majority of the Council;
- Notices of Motion for consideration at the next ordinary meeting of the Council;
- Items for consideration behind closed doors; and
- 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**

- (1) Public question time will be limited to a total of fifteen minutes duration, except by consent of the presiding member.
- (2) A member of the public who raises a question during question time is to state his or her name and address and be limited to three minutes duration to speak except with the consent of the presiding member.
- (3) A question may be taken on notice by the Council or committee for later response.
- (4) When a question is taken on notice under sub-clause (3) 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.

### **3.4 Applications for Leave of Absence**

Leave of absence is dealt within the Act.

### **3.5 Notice of Items to be Discussed Behind Closed Doors**

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.

### **3.6 Confirmation of Minutes**

- (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.

### 3.7 Announcements by the Person Presiding Without Discussion

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(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.

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(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.

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### 3.8 Petitions

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(1) A petition, in order to be effective, is to:-

- (a) be addressed to the Council and be in the form "We, the undersigned, all being Electors of the Shire of Capel, do humbly pray that...";
- (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;
- (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; and
- (g) not contain any language that is disrespectful to the Council or likely to be defamatory to any person.

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(2) A Petition must be in the form prescribed by the Act and *Local Government (Constitution) Regulations 1996* if it is:-

- (a) a proposal to change the method of filling the office of President;
- (b) a proposal to create a new district or the boundaries of the Shire of Capel;
- (c) a request for a poll on a recommended amalgamation; or
- (d) a submission about changes to wards the name of a district or ward or the number of Councillors for a district or ward.

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(3) A member presenting a petition shall be limited to a statement of the parties from whom it comes, the number of the signatures attached to it, the material issues contained in it, and to the reading of the preamble to the petition. It shall be incumbent on the member presenting the petition to be familiar with the nature and contents of the petition, and to ascertain that it is in the form prescribed by this clause.

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(4) The only question that shall be considered by the Council on the presentation of any petition shall be:-

- (a) that the petition shall be acknowledged; or
- (b) that the petition be acknowledged and referred to the CEO for a report; or
- (c) that the petition be acknowledged and be dealt with by the Council in conjunction with an item on the same agenda paper.

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### 3.9 Deputations

(1) A person or person wishing to be received as a deputation by the Council or a committee is to apply, in writing, to the CEO, not less than seven (7) working days prior to the meeting at which the deputation wishes to be received, setting out in concise terms the matter to be raised. The CEO, is to forward the written request to the President, or the presiding member as the case may be.

- (2) The President 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 is not to exceed three persons, only two of which all are at liberty to address the Council, for a maximum of five (5) minutes each or a collective maximum of ten (10) minutes, except in reply to questions from Councillors, and the matter shall not be further considered by the Council, until all other business of the meeting has been finalised.

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.

### **3.10 Presentations**

- (1) Any member of the public may during the presentations segment of the ordinary meeting, with the consent of the presiding member, speak on any matter on the agenda paper provided that:-
  - (a) the person has requested the right to do so in writing addressed to the CEO by noon on the day of the meeting;
  - (b) the person's speaking right is to be exercised before Council debates the particular agenda paper item;
  - (c) the person speaking will be limited to a maximum period of five (5) minutes; and
  - (d) Persons addressing Council on an agenda item are not entitled to table documents as part of the meeting proceedings.
- (2) Any member of the public making a presentation shall not also be afforded a deputation during that meeting or an adjourned meeting on the same matter.

### **3.11 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 five 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 President 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 matter 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.

### **3.12 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 five 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.

### **3.13 New Business of an Urgent Nature Introduced by a Decision of the Meeting**

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.

### **3.14 Motions without Notice by Absolute Majority of the Council**

A motion moved without notice, shall be worded so as to refer to a particular matter for investigation and report to Council or a Committee for consideration of the Council at a later date, except where the Council is satisfied that sufficient information has been provided and that the urgency of the matter is such as to warrant an immediate decision by the Council.

## **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 the Regulation, 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.

Penalty \$5,000.

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

#### **5.1 Disclosure of Financial and Proximity Interests**

The requirements for disclosure of any interest of members or employees is as defined in the Act.

#### **5.2 Disclosure of Interest Affecting Impartiality**

The disclosure of interests affecting impartiality is dealt with by the Code of Conduct adopted by the Council.

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#### **5.3 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.

#### **5.4 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.
- (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.

#### **5.5 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.

- (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.

#### **5.6 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.

#### **5.7 Disclosures by Employees**

- (1) If an employee 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.
- (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.

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### **Part 6 - Quorum**

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#### **6.1 Quorum to be Present**

- (1) If at any time during any meeting a quorum is not present, the presiding member upon becoming aware of the fact is to suspend the proceedings of the meeting for a period of 15 minutes.
- (2) If a quorum is not present at the expiration of the 15 minutes suspension period the presiding member is to extend the suspension for a further period of 30 minutes after which the meeting is deemed to be adjourned and the CEO is to reschedule the meeting to a future time or date, having regard for the requirements for the convening of meetings.
- (3) A record is to be taken of all those who have spoken on the subject under consideration at the time of the adjournment and be recorded in the minutes of the meeting.
- (4) Where the debate on any motion is interrupted at a meeting, which is adjourned due to lack of a quorum, that debate is to be resumed at the resumption of the meeting at the point where it was interrupted.
- (5) The members who have spoken on the motion at the adjourned meeting must not speak again on resumption of that meeting, except the mover who retains the right of reply.
- (6) At any meeting where a quorum is not present or there is an adjournment due to the lack of a quorum the names of the members then present are to be recorded in the minute book.

## **Part 7 - Keeping of Minutes**

### **7.1 Content of Minutes**

In addition to the matters contained in 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.

### **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.

## **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 President 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, a position at the Council table to each councillor and the councillor is to occupy that position 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.

(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 electronic visual or audio recording device to record the proceedings of the Council unless the CEO, or by decision of the Council, has given permission to do so.
- (2) If the CEO gives permission under subclause (1), the CEO is to advise the meeting, immediately before the recording is commenced, that such permission has been given and details of the part of the meeting that is to be recorded.
- (3) Subclause (1) does not apply if the record is taken by or at the direction of the CEO.

### **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 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.

### **9.2 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.

### **9.3 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.

**9.4 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.

**9.5 Limitation of Duration of Speeches**

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

**9.6 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.

**9.7 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:

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

**9.8 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.

**9.9 Objectionable Business**

- (1) If the presiding member at any meeting is of the opinion, or a Councillor draws to the presiding member's attention, that any motion or business proposed to be made or transacted is of an objectionable character, the presiding member either before or after the matter is brought forward may declare that the matter shall not be considered.
- (2) Any member may move dissent from the declaration made from the presiding member, whereupon the motion to dissent shall forthwith be put without debate.

In the event of the dissent being carried by a majority of the members present, the business referred to shall thereupon be entertained but not otherwise.

**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 read the text 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 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; and
- (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.

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### **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.

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**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.

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**10.12 Foreshadowed Motion**

During the course of debate as an amendment to a motion, a Member may give notice of intention to move a motion or amendment when the question before the meeting is decided.

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**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.

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**10.14 Repetition of Motions**

No motion or amendment shall be proposed which is the same in substance as a motion or amendment which has been resolved during the same sitting of Council, except by a simple majority decision of the meeting.

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**10.15 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.

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**10.16 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.

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**10.17 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.

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**10.18 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.

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### 10.19 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.

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### 10.20 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.

### 10.21 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.

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## 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 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.

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**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.

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**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.

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**Part 12 - Effect of Procedural Motions**

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**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.

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**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.

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(2) If the motion is carried at a meeting of the Council -

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- (a) the names of members who have spoken on the matter are to be recorded in the minutes; and
- (b) the provisions of clause 9.4 apply when the debate is resumed.

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**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.

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(2) Where debate on a motion is interrupted by an adjournment under subclause (1):-

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- (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 9.4 apply when the debate is resumed.

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

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(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.

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

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(3) This motion, if lost, causes debate to continue.

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**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 3.5 or other decision of the Council or committee, this motion, if carried, causes the general public and any 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 9.4 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 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**

**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.

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## 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 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 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.

### 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.

### **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.

### **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; and
- (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 9.2, 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.
- (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 9.4 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.

### **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.

### **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.

### **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.

### **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.

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

### **17.1 Establishment and Appointment of Committees**

A committee, other than any committee required by the Act to be established, is not to be established except on a motion setting out the proposed functions of the committee and either:-

- (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.

**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; and
- (b) Clause 9.4, limitation on the number of speeches.

**Part 18 – Meeting of Electors****18.1 Standing Orders Apply**

These Standing Orders apply, so far as is practicable, to any meeting of electors, but where there is any inconsistency between the provisions of these Standing Orders and the provisions of the Act and Regulations, the provisions of the Act and the Regulations prevail.

**18.2 Restriction on voting and speaking**

A person who is not an elector as that term is defined in the Act (including ratepayers) is not entitled to vote at a meeting of electors, and he or she may not take any part in any discussion at that meeting, unless the meeting, by a resolution, allows the person to do so.

**Part 19 - Administrative Matters****19.1 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.

**19.2 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 20 - Common Seal**

**20.1 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 President 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.

Dated 12<sup>th</sup> April 2007

The Common Seal of the Shire of Capel )  
was affixed by authority of a resolution )  
of the Council in the presence of- )

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**Cr MT Scott**  
**Shire President**

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**P Sheedy**  
**Chief Executive Officer**