

9.2 - Notice of Motion – Review of Standing Orders Local Law (SJ4082)

Councillor	Councillor Mack
Disclosure of Officers Interest:	No Officer involved in the preparation of this report has an interest to declare in accordance with the provisions of the <i>Local Government Act 1995</i> .

Notice of Motion

A Notice of Motion was received from Councillor Mack via email on Thursday, 6 April 2023.

The Notice of Motion is “That Council REQUESTS that the Chief Executive Officer conduct a review of the *Shire of Serpentine Jarrahdale Standing Orders Local Law 2002* in early 2024 and consider the proposed change to local government laws as introduced by the State Government.”

Officer Comment

The *Shire of Serpentine Jarrahdale Standing Orders Local Law 2002* governs the processes and procedures for council and committee meetings at the Shire of Serpentine Jarrahdale. Adopted in 2002 it was last amended in 2010 and provides a framework for the conduct of council and committee meetings to enable debate, deliberation and decision-making through the majority decision of Council or a Committee.

The Shire’s Standing Orders are based on a model local law and were last reviewed in October 2018 as part of the statutory local law review.

Officers do not support a review of Standing Orders at this time for three reasons:

1. Officers believe that the current Standing Orders serve the Shire well, are consistent with the Department’s ‘*A guide to council and committee meetings*’ and provide a robust framework for debate and decision making through a majority of Councillors which conforms to practices in local governments across the state;
2. as the amendments to the *Local Government Act 1995* to occur within the timetable proposed by the Notice of Motion will result in a mandatory and uniform Meeting Procedures for local governments across the State, a review of the Standing Orders would be a duplication of effort and likely result in the work being made obsolete by the introduction of the uniform Standing Orders; and
3. Over the past few years Officers have not found the current standing orders lacking in any quality required for the practical management of Council meetings.

The Shire’s Standing Orders are a local law created under section 3.5 of the *Local Government Act 1995* (the Act). As a local law, the process to amend the Standing Orders must follow the process set out in section 3.12 of the Act. This involves a two stage process of Council first proposing to make amendments, a mandatory community consultation process where the input of the Minister in question must be obtained, before the local government formally makes the amendments. Once made, the law is then considered by the Joint Standing Committee

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on Delegated Legislation (JSCDL), who in around one-third of cases, orders that the local law be further amended which may restart the entire process.

Amending a local law takes approximately six months from initiation to receiving the 'all clear' from the JSCDL. Reviewing a local law also involves direct and indirect costs to the Shire. Direct costs occur through the mandatory advertising period which costs several hundred dollars as well as legal review and assistance in drafting to minimise the likelihood of JSCDL disallowance. The use of external legal advisors when preparing local laws is recommended in the Department's guideline and can cost several thousand dollars depending on the complexity of the issue.

As amendments to the *Local Government Act 1995* are being pursued by the State Government that will repeal and replace all local government standing orders and meeting procedures, Officers do not believe that the direct and indirect investment in reviewing the Shire's Standing Orders at this time is optimal.

The *Local Government Amendment Bill 2023* currently before Parliament establishes a head of power for uniform meeting procedures across all local governments across the State. According to the Department's website the purpose of the uniform set of regulations is to ensure that local governments' meetings all operate in a comparable way.

In briefings to the sector in March 2023, the Department of Local Government advised that following the introduction of Regulations, all existing local government Standing Order / Meeting Procedures local laws would be abolished by Governor's Orders. This means that any and all Standing Orders / Meeting Procedures adopted by the Shire would be repealed at that time and that the provisions of the Regulations would commence.

While the details of the Regulations are not known, the head of power created by Clause 62 of the *Local Government Amendment Bill 2023* is broad:

- (1) *Regulations may make provision in relation to meetings of councils, committees or electors.*
- (2) *Without limiting subsection (1), regulations made for the purposes of that subsection may make provision in relation to any of the following —*
 - (a) *the matters to be dealt with at meetings;*
 - (b) *the procedure to be followed at, or in respect of, meetings;*
 - (c) *the holding of meetings by telephone, video conference or other electronic means;*
 - (d) *methods of voting at meetings;*
 - (e) *the circumstances and manner in which a decision made at a meeting may be revoked or changed (which may differ from the manner in which the decision was made);*
 - (f) *the content and confirmation of minutes of meetings;*
 - (g) *the keeping and preserving of documents that relate to meetings;*
 - (h) *the publication or otherwise making available for inspection by the public (including in advance of meetings) of documents that relate to meetings;*
 - (i) *the giving of public notice of the date and agenda for meetings;*
 - (j) *the giving of directions, by the person presiding at a meeting, to a council or committee member or to any other person;*
 - (k) *the exclusion from a meeting of a council or committee member or any other person —*
 - (i) *who fails to comply with a direction given by the person presiding at the meeting; or*



- (ii) whose conduct at the meeting is offensive or disruptive or otherwise not conducive to the proper conduct of the meeting;*
- (l) the steps to be taken if a council or committee member, or any other person, refuses to leave a meeting after having been excluded as referred to in paragraph (k).*
- (3) If regulations made for the purposes of subsection (1) provide for meetings to be held by telephone, video conference or other electronic means, regulations may modify the application of this Act in relation to those meetings to the extent necessary or convenient to facilitate the holding of those meetings in that way.*
- (4) In subsection (2)(g) and (h), references to documents that relate to meetings include (without limitation) the following —*
 - (a) minutes of meetings (confirmed or unconfirmed);*
 - (b) notice papers or agendas for meetings;*
 - (c) reports or other documents that are tabled, produced or presented at meetings;*
 - (d) reports or other documents that are intended to be tabled, produced or presented at meetings.*
- (5) Regulations made for the purposes of subsection (1) may, in relation to a member of the public who raises a question at a meeting under section 5.24, make provision about how the member is to be referred to in a document that is made available for inspection under section 5.94(n) or (p) or is published under section 5.96A(1)(f) or (h).*
- (6) Regulations made for the purposes of subsection (1) may prescribe model provisions that must or may be adopted by a local government.*

Likewise, while a timetable for the commencement of the Regulations is not known, with the priority given to the electoral reforms, Officers believe that the Regulations would be drafted and commence sometime in 2024. This commencement of the Regulations would interpret any review of the Shire's Standing Orders. If the Regulations commenced after Standing Orders amendments occurred the newly amended Standing Orders would still be repealed.

The introduction of uniform meeting procedures could be a significant change for the sector. However, the variation between meeting procedures across local governments tends to be in the areas of public participation with rules concerning the moving of motions and debate already largely uniform across local governments. The comments from the Department in sector briefings also reflect this.

While the focus of the Department's efforts are on electoral reform, Officers continue to monitor the Local Government legislative reforms noting that these will result in significant change for the Shire and the preparation of guidance material for the public, Councillors and Officers alike.



Continued

**Ordinary Council Meeting – 17 April 2023 – 9.2 –
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Law (SJ4082)**

Voting Requirements: Simple Majority

Councillor Recommendation

That Council REQUESTS that the Chief Executive Officer conduct a review of the *Shire of Serpentine Jarrahdale Standing Orders Local Law 2002* in early 2024 and consider the proposed change to local government laws as introduced by the State Government.

Alternate Officer Recommendation

That Council NOTES that the *Local Government Amendment Bill 2023* will introduce a head of power for Regulations to be created which will establish mandatory and uniform meeting procedures across all local governments and that, when introduced, the *Shire of Serpentine Jarrahdale Standing Orders Local Law 2002* and any subsequent amendments will be repealed through Governor's Orders.