

Broome Cemetery Advisory Committee

- | | |
|--------------------------------------|---|
| 1 x Councillor
(including Deputy) | - Cr G T Campbell ;
Cr Philip F Matsumoto (1st Deputy) ;
Cr E Yu Cr _____ (2nd Deputy) |
| 3 4 x Shire Staff | - Director Corporate and Community Services
Director Engineering Services
Manager Governance
Senior Customer Service Officer (Non voting) |
| 9 10 x Community
Delegates | - Mr R Crook – Community Delegate
Mr D Dep Ms E Yu - Chinese Community Delegate
Mrs N Darcy - Historical Society Delegate
Ms C Masuda – Community Delegate
Mr C Reeves – Community Delegate
Mr J Bin-Demin Ms J Bin Omar – Muslim Community Delegate
Ms L Collins – Community Delegate
Fr M Digges – Catholic Church/Broome Ministers Fraternal
Ms E Bernard – Community Delegate
Mr T Mildenhall – Broome Anglican Church |
| Funeral Directors | - Mr P Cornish – Broome Funeral Services
Ms F Zavazal – Okuri Funeral Services |
| Chairperson/Deputy | Mr C Reeves (Chairperson);
Fr M Digges (Deputy Chair) |
| Officer Responsible | - Director Corporate and Community Services
(Liaise via Manager Governance) |
| Meeting Schedule | - Bimonthly on Tuesdays at 4pm |
| Meeting Location | - Committee Room, Shire of Broome |
| Quorum | - The Quorum shall be four (4) members in accordance with
Section 5.15 of the Local Government Act 1995. |
| Delegated Authority | - Nil |

FUNCTIONS:

1.0 NAME

The name of the Committee is the Broome Cemetery Advisory Committee.

2.0 DISTRICT/AREA OF CONTROL

The district shall have the application as deemed in the Local Government Act 1995, **district** means an area of the State that is declared to be a district under section 2.1 of the Local Government Act 1995. This being the whole of the Shire of Broome.

3.0 VISION / PURPOSE

N/A

4.0 STATUTE

Local Government Act 1995

3.54. *Reserves under control of a local government*

- (1) *If land reserved under the Land Administration Act 1997 is vested in or placed under the control and management of a local government, the local government may do anything for the purpose of controlling and managing that land that it could do under section 5 of the Parks and Reserves Act 1895 if it were a Board appointed under that Act to manage and control the land and for that purpose a reference in that section to a by-law is to be read as a reference to a local law.*
- (2) *Subsection (1) is subject to any express provision to the contrary made by an order under the Land Administration Act 1997 in respect of the land.*
[Section 3.54 amended by No. 49 of 2004 s. 74(4).]

3.55. *Acquisition of land*

A local government can only take land under Part 9 of the Land Administration Act 1997 if it is in, or is to be regarded as being included in, its own district.

5.8. *Establishment of committees*

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.*

** Absolute majority required.*

5.9. *Types of committees*

- (1) *In this section —
other person means a person who is not a council member or an employee.*

- (2) A committee is to comprise —
 - (a) council members only;
 - (b) council members and employees;
 - (c) council members, employees and other persons;
 - (d) council members and other persons;
 - (e) employees and other persons; or
 - (f) other persons only.

5.10. Appointment of committee members

- (1) A committee is to have as its members —
 - (a) persons appointed* by the local government to be members of the committee (other than those referred to in paragraph (b)); and
 - (b) persons who are appointed to be members of the committee under subsection (4) or (5).

* Absolute majority required.

- (2) At any given time each council member is entitled to be a member of at least one committee referred to in section 5.9(2)(a) or (b) and if a council member nominates himself or herself to be a member of such a committee or committees, the local government is to include that council member in the persons appointed under subsection (1)(a) to at least one of those committees as the local government decides.
- (3) Section 52 of the Interpretation Act 1984 applies to appointments of committee members other than those appointed under subsection (4) or (5) but any power exercised under section 52(1) of that Act can only be exercised on the decision of an absolute majority of the local government.
- (4) If at a meeting of the council a local government is to make an appointment to a committee that has or could have a council member as a member and the mayor or president informs the local government of his or her wish to be a member of the committee, the local government is to appoint the mayor or president to be a member of the committee.
- (5) If at a meeting of the council a local government is to make an appointment to a committee that has or will have an employee as a member and the CEO informs the local government of his or her wish —
 - (a) to be a member of the committee; or
 - (b) that a representative of the CEO be a member of the committee, the local government is to appoint the CEO or the CEO's representative, as the case may be, to be a member of the committee.

Cemeteries Act 1986

Part VIII — Local laws, by-laws and regulations

[Heading amended by No. 14 of 1996 s. 4; No. 57 of 1997 s. 29(1).]

54. Procedure for local laws and by-laws

- (1) A Board that is a local government may make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the Local Government Act 1995 for the purposes specified in section 55.
- (2) A Board that is not a local government may make by-laws for the purposes specified in section 55 and is to make them in accordance with subdivision 2 of Division 2 of Part 3 of the Local Government Act 1995 as if the Board was a local government making local laws.
[Section 54 inserted by No. 14 of 1996 s. 4.]

55. Local laws and by-laws

- (1) A Board may make local laws or by-laws, as the case may be, that are necessary or convenient for the purposes of this Act and in particular for any of the following purposes —
 - (a) prescribing types of memorials permitted in different areas of a cemetery;
 - (b) prescribing the location, dimensions and preparation of graves;
 - (c) prescribing specifications and materials for memorials;
 - (d) prescribing specifications and materials for coffins for burials and cremations;
 - (e) prescribing methods for the disposal of ashes of cremated bodies in a cemetery;
 - (f) prescribing requirements for the burial and covering of coffins;
 - (g) for the protection of memorials and the land and property of a Board;
 - (h) regulating the grant of rights of burial;
 - (i) regulating the maintenance of areas for burials and empowering a Board to enter into an agreement with the holder of a right of burial for the maintenance of an area at the expense of such holder;
 - (j) regulating, subject to the provisions of the Cremation Act 1929, the operation of any crematorium used by a Board;
 - (k) convening and regulating meetings of a Board;
 - (l) for the conduct of funerals, including the conduct of funerals by a Board;
 - (m) prescribing the procedures of a Board with respect to applications for and issue of licences, permits and permissions;
 - (n) regulating the entry to and use of vehicles in a cemetery;
 - (o) regulating the manner of payment and the receipt of fees and charges;
 - (p) providing that contravention of a local law or by-law constitutes an offence and providing for penalties not exceeding a fine of \$500 and if the offence is a continuing one to a further fine not exceeding \$20 for every day or part of a day during which the offence has continued;
 - (q) prescribing offences for the purposes of sections 63 and 64 by setting out the offences or by reference to the provisions contravention of which constitutes the offences and in respect of each such offence prescribing the modified penalty, or different modified penalties according to the circumstances by which the offence is attended, applicable if the offence is dealt with under those sections, but so that no such modified penalty exceeds \$50; and

- (r) generally for the doing of all such acts and things as are or may be necessary or convenient for the effective administration of a cemetery.

[Section 55 amended by No. 14 of 1996 s. 4; No. 57 of 1997 s. 29(2).]

56. *Model local laws*

- (1) The Governor may cause to be prepared and published in the Gazette model local laws the provisions of which a local law or by-law made under this Act may adopt by reference, with or without modification.
- (2) Model local laws have no effect except to the extent that they are adopted.
- (3) The Governor may, by notice published in the Gazette, amend a model local law published under this section.
- (4) An amendment to a model local law does not affect any local law or by-law that adopted the model local law before the amendment but the amendment may be adopted by a further local law or by-law.

[Section 56 inserted by No. 14 of 1996 s. 4.]

Shire of Broome - Local Law (Cemeteries) 2012

PART 1 - PRELIMINARY

1.1 Citation

This local law may be cited as the Shire of Broome Cemeteries Local Law 2012.

1.2 Application

This local law applies to all public cemeteries within the district.

1.3 Commencement

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

1.4 Interpretation

In this local law unless the context otherwise requires:

Act means the Cemeteries Act 1986;

ashes means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;

authorised person means an employee of the Board -

- (a) appointed by the Board under section 9.10 of the Local Government Act 1995 for the purposes of performing any function or exercising any power, other than the giving of infringement notices, conferred upon an authorised person by this local law; or
- (b) authorised under section 64 of the Act in writing signed by the chairman of the Board to give infringement notices;

CEO means the chief executive officer for the time being, of the Board;

coffin means a coffin or other receptacle used for the transportation of a dead body to the grave site;

district means the district of the Shire of Broome;

Funeral Director means a person holding a current funeral director's licence;

Board means the Shire of Broome;

mausoleum means a building or construction wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

monumental mason means a person holding a current monumental mason's licence;

personal representative means the administrator or executor of an estate of a deceased person;

set fee refers to fees and charges set by a resolution of the Board and published in the Government Gazette, under section 53 of the Act;

single funeral permit means a permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct at the cemetery a funeral of a person named in the permit; and

vault means a below ground lined grave with one or more sealed compartments constructed to specifications approved from time to time by the Board.

1.5 Repeal

The Shire of Broome Local Law (Cemeteries) 1998 published in the Government Gazette on 18 June 1999 is repealed.

Part 2 - Administration

2.1 Powers and functions of CEO

Subject to any directions given by the Board, the CEO shall exercise all the powers and functions of the Board in respect of the cemetery.

Part 3 – Application for Funerals

3.1 Application for burial

- (1) A person may apply for approval to bury a dead body in the cemetery in the form determined by the Board from time to time.
- (2) An application under subclause (1) is to be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc

All applications referred to in clause 3.1 shall be accompanied by either a medical certificate of death or a Coroner's order of burial, and a certificate issued under clause 3.3, in respect of the body.

3.3 Certificate of identification

- (1) After a dead body is placed in a coffin and prior to a dead body being removed to the cemetery, a person who personally knew the deceased shall identify the dead body and shall complete a certificate of identification in the form determined by the Board from time to time, unless –
 - (a) in the opinion of the Funeral Director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort the Funeral Director is unable to arrange for a person to identify the dead body.
- (2) A funeral director shall complete a certificate in the form determined by the Board from time to time, where –
 - (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or

- (b) *after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.*

3.4 Minimum notice required

All bookings to hold a funeral shall be made with the Board at least forty eight hours prior to the time proposed for burial on the application, otherwise an extra charge may be made.

Part 4 – Funeral Directors

4.1 Funeral Director’s licence expiry

A Funeral Director’s licence shall expire on the 30th day of June in each year.

4.2 Single funeral permits

Every application for a single funeral permit made under section 20 or 21 of the Act shall include coffin specifications and details of the vehicle transporting the dead body to the gravesite.

4.3 Application refusal

The Board may refuse an application for a single funeral permit if, in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite are not structurally sound or are otherwise inadequate or inappropriate, or on any other grounds.

Part 5 - Funerals

Division 1 - General

5.1 Requirements for funerals and coffins

A person shall not bring a dead body into a cemetery unless –

- (a) *the Board has approved an application for the burial of that dead body in accordance with Part 3 of this local law;*
- (b) *it is enclosed in a coffin which in the opinion of the Board is structurally sound and bears the name of the deceased person indelibly inscribed in legible characters on a plate on the coffin’s lid; and*
- (c) *there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height, for burial with the dead body.*

5.2 Funeral processions

The time fixed by the Board for any burial shall be the time at which the funeral procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the funeral under clause 3.1 shall pay the set fee for being late.

5.3 Vehicle entry restricted

- (1) *Subject to clause 5.3(2), every funeral procession shall enter by the principal entrance, and no vehicle except the hearse, and official mourning coaches, shall be permitted to enter the cemetery.*
- (2) *This clause shall not apply to vehicles approved by the CEO or an authorised person or to persons using wheelchairs or motorised wheelchairs.*

5.4 Vehicle access and speed limitation

- (1) A person shall drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within the cemetery, unless otherwise authorised by the CEO.
- (2) A person driving a vehicle, within a cemetery, shall not exceed the speed limit of 25 km per hour, and shall comply with the signs and directions in the cemetery.

5.5 Offenders may be ordered to leave

- (1) A person committing an offence under clause 5.4 may be ordered to leave the cemetery by the CEO or an authorised person.
- (2) A person who has been ordered to leave the cemetery by the CEO or an authorised person is to leave immediately in a peaceful manner and not cause a disruption or be a nuisance to the funeral congregation or ceremony or procession.

5.6 Conduct of funeral by the Board

When conducting a funeral under section 22 of the Act the Board may –

- (a) require a written request for it to conduct a funeral to be lodged with it;
- (b) in its absolute discretion, charge any person requesting it to conduct a funeral the set fee for the conduct of that funeral by it;
- (c) where no fee or a reduced fee has been charged by it for the conduct of the funeral, determine the manner in which the funeral shall be conducted;
- (d) specify an area in the cemetery where the dead body is to be buried or the ashes placed;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law;
- (f) do or require anything which it considers is necessary or convenient for the conduct of a funeral by it.

Division 2 - Placement of Ashes

5.7 Disposal of ashes

- (1) The personal representative of a deceased person whose body has been cremated may apply, in an application under clause 3.1 or otherwise, for permission to dispose of the ashes in the cemetery and upon payment of the set fee the Board may grant permission for the ashes to be disposed of by one of the following methods, if that method is available -

- Niche Wall
- Memorial Wall
- Garden of Remembrance
- Ground Niche
- Memorial Rose, Tree or Shrub
- Family Shrub
- Memorial Desk
- Granite Seat
- Family Grave
- Book of Remembrance

Scattering in an area approved by the Board
Memorial Gardens

Other memorials approved by the Board

- (2) Subject to sub-clauses (3) and (4), a person shall not place the ashes of a deceased person in the cemetery.
- (3) An authorised person or licensed Funeral Director may place the ashes of a deceased person in a cemetery in accordance with the Board approval provided –
 - (a) the person requesting the placement of the ashes has the permission of the Board; and
 - (b) the ashes are placed within an area set aside for that purpose by the Board.
- (4) An authorised person or licensed Funeral Director may place the ashes of a deceased person within a grave in accordance with the Board approval, provided the person requesting the placement of the ashes has the written permission of the Board and the approval of the holder of the right of burial of the grave.

Part 6 - Burials

6.1 Depth of graves

- (1) A person shall not bury a dead body within the cemetery so that the distance from the top of the dead body to the original surface of the ground is -
 - (a) subject to paragraph (b), less than 1600mm, unless that person has the permission of an authorised person; or
 - (b) in any circumstances less than 1100mm.
- (2) The permission of the authorised person in sub-clause (1)(a) will only be granted where in the opinion of the authorised person exceptional circumstances require granting of that permission.
- (3) Permission of the authorised person shall not be given for more than 2 dead bodies to be buried per grave.

Part 7 – Memorials and Other Work

Division 1 - General

7.1 Application for monumental work

A Board may require the written consent of the holder of the right of burial of the grave to accompany an application under section 30 of the Act.

7.2 Placement of monumental work

Every memorial shall be placed on proper and substantial foundations.

7.3 Removal of rubbish

All refuse, rubbish or surplus material remaining after memorial works are completed under a permit issued under section 30 of the Act shall be immediately removed from the cemetery by the person carrying out the same.

7.4 Operation of work

All material required in the erection and completion of any work shall, as far as possible, be prepared before being taken to the cemetery, and all materials

required by tradesmen shall be admitted at such entrance as the CEO or an authorised person shall direct.

7.5 Removal of sand, soil or loam

No sand, earth or other material shall be taken from any part of the cemetery for use in the erection of any memorial or work except with the written approval of the Board.

7.6 Hours of work

Persons shall not be permitted to carry out memorial or other work on graves within the cemetery other than during the hours of 6.00am and 6.00pm on weekdays, and 8.00am and noon on Saturdays, without the written permission of the Board.

7.7 Unfinished work

Should any work by masons or others be not completed before 6.00pm on weekdays and noon on Saturdays, they shall be required to leave the work in a neat and safe condition to the satisfaction of the CEO or an authorised person.

7.8 Use of wood

No wooden fence, railing, cross or other wooden erection shall be allowed on or around any grave, other than as a temporary marker and with the prior written approval of the Board.

7.9 Plants and trees

No trees or shrubs shall be planted on any grave or within the cemetery except such as shall be approved in writing by the CEO.

7.10 Supervision

All workers, whether employed by the Board or by any other person, shall at all times whilst within the boundaries of the cemetery be subject to the supervision of the CEO or an authorised person and shall obey such directions as the CEO or an authorised person may give.

7.11 Australian war graves

Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves:

- (a) may place a memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

7.12 Placing of glass domes and vases

A person shall not place glass domes, vases or other grave ornaments –

- (a) outside the perimeter of a grave in the cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or
- (b) on the lawn in an area set aside by the Board as a lawn or a memorial plaque section.

7.13 Specification on monuments

- (1) All monuments in the cemetery shall –
 - (a) Comply with the following specifications:

- (i) the overall height of the monument above the original surface of the grave shall not exceed 1.05m;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
 - (iii) the dimensions of a base shall be 1.20m by 2.40m; and
 - (iv) the depth of the base of the monument shall not exceed 300mm; and
- (b) a base shall have footings extending to the natural surface of the ground.
- (2) An admiralty bronze memorial plaque may be attached to a monument erected or being erected within the cemetery.
- (3) A person shall not display any trade names or marks upon any monument erected within the cemetery.

7.14 Headstones

In the cemetery, that part of a headstone above its base shall not extend horizontally beyond that base.

Division 2 - Memorial Plaque Section

7.15 Requirements of a memorial plaque

- (1) All memorial plaques placed in a memorial plaque section of the cemetery shall –
- (a) be made of admiralty bronze or any other material approved by the Board; and
 - (b) not be less than the dimensions 380mm x 280mm, nor more than 560mm x 305mm; and
- (2) All memorial plaques made of admiralty bronze shall –
- (a) not exceed 20mm in thickness; and
 - (b) be placed upon a base mounting approved by the Board.
- (3) All memorial plaques made of stone shall –
- (a) not exceed 50mm in thickness placed upon a base mounting approved by the Board; or
 - (b) not be less than 100mm in thickness if it is not to be placed upon a base mounting.

Part 8 - General

8.1 Animals

Subject to clause 8.2, a person shall not bring an animal into or permit an animal to enter or remain in the cemetery, other than with the approval of the CEO or an authorised person.

8.2 Guide dogs

Clause 8.1 shall not apply to a hearing impaired person or a person who is blind or partially blind and is accompanied by a hearing or guide dog.

8.3 Damaging and removing of objects

Subject to clause 8.4, a person shall not damage, remove or pick any tree, plant, shrub or flower in the cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

8.4 Withered flowers

A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

8.5 Littering and vandalism

A person shall not –

- (a) break or cause to be broken any glass, ceramic or other material in or upon the cemetery; or
- (b) discard, deposit, leave or cause to be discarded, deposited or left any refuse or litter in or upon the cemetery other than in a receptacle provided for that purpose.

8.6 Advertising

- (1) A person shall not advertise or carry on any trade, business or profession within the cemetery without the prior written approval of the Board.
- (2) The Board may consider and grant approval subject to such conditions as the Board thinks fit.

8.7 Obeying signs and directions

A person shall obey all signs displayed, marked, placed or erected by the Board within the cemetery and any other lawful direction by the CEO or an authorised person.

8.8 Removal from the cemetery

Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board, the CEO or an authorised person is inappropriate in the cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery by the Board, the CEO or an authorised person.

Part 9 – Offences and Modified Penalties

9.1 General

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding \$500.00 and if the offence is a continuing one to a further penalty not exceeding \$20.00 for every day or part of a day during which the offence has continued.

9.2 Modified penalties

- (1) The offences specified in Schedule 1 are offences which may be dealt with under section 63 of the Act.
- (2) The modified penalty payable in respect of an offence specified in Schedule 1 is the maximum penalty as prescribed in the Act.
- (3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is set out in Schedule 2.
- (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is set out in Schedule 3.

5.0 ESTABLISHMENT

Committee established as per Council Resolution of 24 May 2005 and reviewed 14 December 2007.

6.0 TERMS OF REFERENCE

The Broome Cemeteries Advisory Committee (BCAC) provides advice to the Council on the management and operation of the Broome Cemetery, taking into consideration the ecumenical and cultural requirements of the various denominations represented in the Cemetery and the future requirements of the Broome Community.

The BCAC shall take into consideration the following matters as part of its Terms of Reference when reporting to Council:

- Formalisation of record keeping and management systems
- Maintenance levels of Cemeteries in the Shire of Broome
- Grave identification and plot marking and other general survey
- Establishment of an Ashes repository
- Fees and Charges
- Review of ongoing management and recognition of the cultural and historical significance of cemeteries within the Shire of Broome.
- Development of new cemetery opportunities within the district considering lawn cemetery, memorial wall
- Review of Local Laws adopted pursuant to the Cemeteries Act 1986

7.0 MEMBERSHIP

7.1 General

Council will appoint one Council Delegate and two Council Deputies to the Committee.

Council will appoint two (2) Shire officers as Delegates to the Committee.

7.2 Tenure of Membership

Local Government Act 1995

5.11. Tenure of committee membership

(1) Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —

(a) the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be;

(b) the person resigns from membership of the committee;

(c) the committee is disbanded; or

(d) the next ordinary elections day, whichever happens first.

(2) Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —

(a) the term of the person's appointment as a committee member expires;

- (b) the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;
- (c) the committee is disbanded; or
- (d) the next ordinary elections day, whichever happens first.

8.0 DELEGATED AUTHORITY

Nil

9.0 COMMITTEE

9.1 Chairperson

As appointed by delegates Mr C Reeves is the Chairperson and Fr M Digges is the Deputy Chairperson.

9.2 Secretariat

The Senior Customer Service Officer will fulfil this administrative non voting role.

9.3 Standing Ex-Officio Members

Nil

10.0 MEETINGS

10.1 Annual General Meeting

N/A

10.2 Committee Meetings

The Committee shall meet on Tuesdays at 4pm every second month, the dates to be advised.

10.3 Quorum

Quorum is four (4) members in accordance with Section 5.15 of the Local Government Act 1995.

5.15. Reduction of quorum for committees

The local government may reduce the number of offices of committee member required for a quorum at a committee meeting specified by the local government if there would not otherwise be a quorum for the meeting.*

** Absolute majority required.*

10.4 Voting

Local Government Act 1995

S 5.21 - Voting

- (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 is to 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.*
- (5) *A person who fails to comply with subsection (2) or (3) commits an offence.*
[Section 5.21 amended by No. 49 of 2004 s. 43.]

10.5 Minutes

The person presiding at a meeting is to ensure that the Minutes are kept of the meetings proceedings.

The Minutes may be confirmed by a majority of members present at the meeting or in writing via email, after the completion of the meeting. Once Minutes have been confirmed by members they are to be submitted to the Council Secretary for inclusion in the Information Bulletin.

Recommendations arising from the Minutes shall be presented to Council at the next available Ordinary Meeting for endorsement and/or action in accordance with section 5.22 of the Local Government Act 1995 and Standing Orders Local Law 2003, Part 7.

10.6 Who Acts if No Presiding Member

Local Government Act 1995

5.14. Who acts if no presiding member

If, in relation to the presiding member of a committee —

- (a) *the office of presiding member and the office of deputy presiding member are vacant; or*
- (b) *the presiding member and the deputy presiding member, if any, are not available or are unable or unwilling to perform the functions of presiding member, then the committee members present at the meeting are to choose one of themselves to preside at the meeting.*

10.7 Meetings

Closed to the public pursuant to Section 5.23(2) of the Local Government Act and is not required to have questions from the public as there are no Council delegations.

10.8 Members Interests to be Disclosed

Members of the Broome Cemetery Advisory Committee are required to declare their financial interests and complete a Declaration form where relevant, using the principles detailed in the Local Government Act Section 5.65-5.70 with respect to disclosure of financial, impartiality or proximity interests ('CEO' in the LGA text means the 'Chairperson' in the committee sense).

5.65. *Members' interests in matters to be discussed at meetings to be disclosed*

- (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) *This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).*

5.9. Types of committees

- (1) *In this section — “other person” means a person who is not a council member or an employee.*
- (2) *A committee is to comprise —*
 - (f) *other persons only.*

5.66. *Meeting to be informed of disclosures*

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

- (a) *before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and*
- (b) *at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.*

[Section 5.66 amended by No.1 of 1998 s.16; No. 64 of 1998 s.33.]

5.67. *Disclosing members not to participate in meetings*

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.

5.68. *Councils and committees may allow members disclosing interests to participate etc. in meetings*

- (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.

5.69. Minister may allow members disclosing interests to participate etc. in meetings

- (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, and any subsequent meeting, relating to the matter.
- (2) An application made under subsection (1) is to include —
 - (a) details of the nature of the interest disclosed and the extent of the interest; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may allow, on any condition determined by the Minister, the disclosing member to preside at the meeting, and at any subsequent meeting, (if otherwise qualified to preside) or to participate in discussions or the decision making procedures relating to the matter if —
 - (a) there would not otherwise be a sufficient number of members to deal with the matter; or
 - (b) the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.

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

[Section 5.69 amended by No. 49 of 2004 s. 53.]

5.69A. Minister may exempt committee members from disclosure requirements

- (1) A council or a CEO may apply to the Minister to exempt the members of a committee from some or all of the provisions of this Subdivision relating to the disclosure of interests by committee members.
- (2) An application under subsection (1) is to include —
 - (a) the name of the committee, details of the function of the committee and the reasons why the exemption is sought; and
 - (b) any other information required by the Minister for the purposes of the application.
- (3) On an application under this section the Minister may grant the exemption, on any conditions determined by the Minister, if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.
- (4) A person must not contravene a condition imposed by the Minister under this section.

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

[Section 5.69A inserted by No. 64 of 1998 s. 34(1).]

5.70. Employees to disclose interests relating to advice or reports

- (1) In this section —

employee includes a person who, under a contract for services with the local government, provides advice or a report on a matter.
- (2) An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.
- (3) An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.

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

5.71. Employees to disclose interests relating to delegated functions

If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and —

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and
- (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.

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