



# Shire of Derby / West Kimberley

## (C8) PUBLIC STATEMENTS BY PRESIDENT, COUNCILLORS AND CHIEF EXECUTIVE OFFICER

### POLICY OBJECTIVE

It is common experience that the President or a Councillor identified as such in a media or other public statement is at risk of being understood as speaking for the local government. It is appropriate to take precautions against that risk.

The objective of this policy is to provide clarity as to the roles and responsibilities of the President, the Deputy President, Councillors and the Chief Executive Officer (CEO) when speaking publicly / issuing public statements on behalf of the Shire of Derby / West Kimberley (the Shire).

### POLICY STATEMENT

#### Speaking Otherwise than for the Local Government

The performance of a role as Councillor imposes special limitations on what would otherwise be a normal member of the public's right to speak in public on local government affairs.

The principal limitation is that a Councillor who is not the President cannot speak or purport to speak on a matter which the *Local Government Act 1995* (the Act) assigns to the role of the President, or to be a function of the CEO.

Each of the President, Deputy President and a Councillor may speak in public to the extent that doing so does not conflict with each other's roles.

#### 1. The President

- 1.1 When speaking to the media or otherwise in public the President is the only member of Council who may speak on behalf of the Shire.
- 1.2 When the President is speaking to the media or otherwise in public but not officially speaking on behalf of the Shire, the President must make it clear that he/she is not speaking as President or in any other Shire capacity.

#### 2. The Deputy President

- 2.1 The Deputy President may only speak to the media or otherwise in public on behalf of the Shire in the circumstances set out in s.5.34 of the Act.
- 2.2 The Deputy President must otherwise comply with the limits on the role of a Councillor when speaking to the media or otherwise in public.

#### 3. Councillor

- 3.1 A Councillor may not speak to the media or otherwise in public on behalf of the Shire.
- 3.2 When a Councillor is speaking to the media or otherwise in public, he/she must make it clear that he/she is not speaking on behalf of the Shire, or in the role of a Council member.



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3.3 A member of Council speaking on Shire matters to the media or otherwise in public may identify himself/herself as an elected member of the Council but must avoid any suggestion or appearance of speaking on behalf of the Shire.

## 4. Chief Executive Officer

4.1 It is part of the function of the CEO to speak on behalf of the Shire if the President agrees.

4.2 The President may give agreement to the CEO speaking on behalf of the Shire:

- a) on a specific occasion; or
- b) on a specific subject matter; or
- c) on a specified category of occasions or a specified category of subjects when they arise.

4.3 Further to the above, the CEO may speak to the media or otherwise in public as to the Shire's affairs in performance of the CEO's functions under s.5.41 of the Act, including that of managing the day-to-day operations of the Shire. The CEO only requires the agreement of the President when making statements of the kind which would ordinarily fall within the role of the President as spokesperson of the Shire.

## 5. Written, Oral and Electronic Statements

This policy applies equally to statements in public whether they are communicated orally, in writing, electronically, or by any other means.



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Policy Details			
<b>Original Adoption date:</b>	27 June 2019 (Item 12.2, Res. 60/19)	<b>Review Frequency:</b>	3 years
		<b>Next Review Due:</b>	August 2027
<b>Policy Implementing Officer or Team:</b>	Executive Services Coordinator	<b>Policy Reviewer:</b>	Chief Executive Officer
<b>Legislative Head of Power (Act, Regulation, or Local Law):</b>	<p>Local Government Act 1995</p> <p>S.2.8(1)(d) of the LG Act provides that it is part of the role of the President to speak on behalf of the local government.</p> <p>S.5.41(f) of the LG Act provides that it is part of the function of the CEO to speak on behalf of the local government if the President agrees.</p> <p>Under s.5.41, the CEO has additional broad functions including the function of managing the day-to-day operations of the local government. That function requires the CEO from time to time to speak in public as to the local government's affairs, but the agreement of the President is only required where the CEO makes a public statement on behalf of the local government of a kind which would ordinarily fall within the role of the President as the spokesperson of the local government.</p> <p>S.2.10 of the LG Act sets out the role of a Councillor, and the role does not include speaking on behalf of the local government.</p> <p>S.5.34 of the LG Act provides that the Deputy President may perform the functions of the President if:</p> <p>(a) the office of President is vacant; or</p> <p>(b) the President is not available, or is unable or unwilling to perform the functions of President.</p>		
<b>Related Documents (other Policies, Operational Procedures, Delegations, etc.):</b>			
Version Control Council Meeting Review Details:			
Review #:	Council Meeting Date:	Item/Resolution#:	
1.	24 June 2021	Item 11.2, Res. 57/21	
2.	24 February 2022	Item 11.5, Res. 07/22	
3.	29 August 2024	Item 12.1, Res. 100/24	