

PART 7: JUSTIFICATION FOR THE BAN ?

Apart from the above notice from the CEO – who is not an elected official - no reason or justification for the ban has been provided to me in any form.

The Mayor, Cr Zelones JP AO, speaking for Council at its meeting of 9 November 2015, responding to my inquiry as to why this ban was effected, said from the chair that *"There is a history on the type of questions being put consisting of lengthy statements and multiple parts to each question."*

Thus it may be assumed this is the primary reason the City is prepared to reveal.

However the claim:-

"There is a history on the type of questions being put consisting of lengthy statements..." cannot be sustained because City of Armadale Local Law Standing Orders 2000 and Public Question Time Policies expressly prohibit (under threat of substantial penalty) the making of statements to Council or Committees - a requirement the Chairperson is quick to remind questioners.

The proof verifying there being no lengthy statements is documented in Standing Orders and the minuted records.

Thus that justification cannot be valid.

It can also be shown from the minuted record that apart from a series of questions relating to interpretation and application of City of Armadale Local Law Standing Orders 2000 and their proposed March 2015 amendments - which discriminated against public questions relating to responsibility and accountability, and proposed substantially increased penalties, my questioning was minimal but adequately descriptive to present the factual basis for each question.

Part 19 – Enforcement

19.1 Penalty for breach

A person who breaches a provision of these Standing Orders commits an offence.

Penalty: \$5,000 and a daily penalty of \$500.

Noting the term “any person” includes Councillors, and given an initial penalty of \$5,000 plus \$500 **per day** for **any** form of breach of **any part** of **any** Standing Order, together with application of previous determinations by the Local Government Standards Panel, the proposed amendments had the effect of converting the elected Council into a “rubber stamp” of the non-elected Executive.

Thus the motive for my questions was to protect and preserve democratic representation by elected members of Council.

Much of the subject matter in the questions had been previously rejected by previous Councils, resulting in successive Councils subjecting themselves to ever increasing restrictions.

The official minuted records tell the story clearly.

Notwithstanding the Mayor's statement from the Chair at Council's meeting of 9 November 2015 that;

"The Mayor advised that while he has been Mayor all questions put to this Council have either been answered at the meeting, taken on notice or dealt with administratively" - the public minuted record verifies **no question put to Council or a Committee by myself during public question time between 2006 and July 2015 has been responded to.**

In fact the last time I attended a Committee meeting was perhaps 1998.

The following table shows the actual number of questions put to Council during 2015

CITY OF ARMADALE LOCAL GOVERNMENT – RECORD OF ORDINARY COUNCIL MEETINGS 2015										
Council Meeting Date	Start Time	End Time	Meeting Duration (Minutes)	Public Present	No. of Questioners	Questions Asked	Questions Responded to	Responses Deferred	Debates - Motions Opposed	Main Issue
27/01/15	7.00	7.13	13	1	-	-	-	-	-	
09/02/15	7.00	7.25	25	-	-	-	-	-	-	
23/02/15	7.00	7.50	50	9	4	7	7	-	-	
09/03/15	7.00	7.17	17	-	-	-	-	-	-	
23/03/15	7.00	7.28	28	1	-	-	-	-	-	
13/04/15	7.00	7.26	26	-	-	-	-	-	-	
28/04/15	7.00	7.12	12	-	-	-	-	-	-	
11/05/15	7.00	7.40	40	3	-	-	-	-	-	
25/05/15	7.00	8.35	95	39	5	5	5	-	-	Golf Course Lease
08/06/15	7.00	7.18	18	2	1	10	-	10	-	Senior Citizens Hall Refurbish
22/06/15	7.00	7.12	12	-	-	-	-	-	-	
13/07/15	7.02	7.32	30	3	1	41	-	41	-	Standing Orders
27/07/15	7.00	7.25	25	2	-	-	-	-	-	
10/08/15	7.00	7.28	28	15	3	4	4	-	-	
24/08/15	7.00	8.15	75	20	1	1	1	-	-	Town Hall
14/09/15	7.00	8.35	95	20	6	13	12	1	-	Town Hall
29/09/15	7.00	7.20	20	5	-	-	-	-	-	
12/10/15	7.00	8.57	117	60	11	28	28			Bedfordale Drug Rehab facility
09/11/15	7.00	8.10	70	3	1	4	3	1	-	
23/11/15	7.00	7.35	35	6	1	1	-	1	-	
-	-	-	-	-	-	-	-	-	-	
21/12/15	7.00	7.40	40	6	1	5	-	-	-	Standing Orders
Total duration										
Average Duration per meeting				195						
Total Public				10						
Average Public per meeting										
Total Questioners					35					
Average Questioners per meeting					< 2					
Total Questions						119				
Average Questions per meeting						< 6				

Questioner shown in red is self – i.e. questions were asked by myself only once in the above period before the ban was imposed – i.e. July 2015

[Note: Click here for a full sized original of the above table](#)

ELECTOR MEETINGS:

City of Armadale Local Law Standing Orders 2000 prescribe:

Part 18 - Meeting of Electors

18.1 Procedure for Electors' Meetings

In exercising his or her discretion to determine the procedure to be followed at an electors' meeting, the presiding member is to have regard to these Standing Orders

18.2 Participation of Non-Electors

A person who is not an elector of the district of the City of Armadale must not take part in any discussion at an electors' meeting unless the meeting, by resolution, permits him or her to do so.

It should be pointed out that questions put to Elector Meetings are NOT "*public questions*" but questions from Electors – who are not, by definition, "the public".

There is no "public question time" in Elector Meetings.

It has been the practice of successive Councils for at least 15 years to require persons attending Elector meetings – Ordinary and Special – to record their names and addresses in a Register, so that should a vote occur then those voting may be verified as valid Electors lawfully eligible to vote (by comparing the attendance register with the City's records).

This procedure has been explained by the Mayor during each of many "Annual Meeting of Electors".

This principle is now enshrined in current City of Armadale Local Law Standing Orders 2000 as Gazetted.

Further, it has been the policy of the present Mayor to structure Elector Meetings as a "question and answer time", with the Mayor fielding questions from the chair - much like a media press conference we see daily on the TV.

Since the purpose of Elector Meetings is to scrutinise the local government, it is fair and reasonable that all Elector questions should be responded to.

Notwithstanding the added SO18.2 **does not** permit the Chairperson to discretionally determine who may participate and who may not, because the Person Presiding cannot sponsor (move) a motion. In my case the person presiding has unilaterally imposed the ban upon myself being an Elector.

Thus the direct effect of excluding "non-electors" – is that "Members of the Public" either from the City of Armadale local government district, or another local government district, cannot participate in "General Business" of the meeting except by the majority resolution of those present.

Although that sounds good, the fact is that there are no opportunities for Motions from the floor to be presented to the meeting when the entire statutory General Business component of the meeting is structured as a “question forum” – as is the practice.

Furthermore, motions will not be accepted by the Chair unless there is a seconder.

Standing Orders provide time periods for speaking for and against a motion and given the time constraints on the entire meeting – eg one hour – thus it is totally impracticable to have debates on who shall and shall not participate on any particular matter or item of business.

In the case of “SPECIAL Elector Meetings” – and there have been several in the City of Armadale opposing Council decisions or plans - exclusion of non-Electors excludes interested parties, affected or disaffected persons such as members of Parliament, legal representatives, town planning professionals, developers etc. who are not Electors.

Furthermore, the ban has been imposed upon "questions to the City", which includes questions not only put before Council but also to Elector meetings and questions submitted to the Administration.