

GUIDE TO PETITIONS

TO BE PRESENTED TO COUNCIL

PART 6 – *LOCAL GOVERNMENT ACT 1993*

DECEMBER 2010

This is a basic guide to preparing a Petition for presentation to Council.

Persons proposing a petition to be presented to Council should consult Part 6 of the *Local Government Act 1993* (sections 57 – 60F) before preparing the petition (copy attached to this information). If a Petition does not comply with those sections it will not be tabled before Council.

A petition may be lodged with Council by presenting it to a Councillor or the General Manager.

For petitions that seek the holding of a public meeting these must be signed by at least 5% of the electors in the municipal area (see section 59 of the Act) and the petition itself must request Council to hold a public meeting regarding the subject matter of the petition.

A covering letter is not part of a Petition – Including information in a covering letter will not meet the requirements of the Act. It must be included in the Petition itself.

A Petition should be prepared in such a way that any person who may wish to sign the Petition is fully aware of the subject matter and action proposed by the Petition. Other than to provide information of the number of signatories and provide the required information relating to the person proposing the Petition, no other matters should be added to a petition once signing has commenced.

Please note that section 339B of the Act sets out offences in relation to petitions which include:

- **A person must not include in, or delete from, a petition the name of another person without that other person's consent.**
- **A person must not include in a petition a statement knowing it to be false or misleading.**
- **A person must not make a statement knowing it to be false or misleading to induce or attempt to induce another person to sign a petition.**

A maximum fine of 5000 penalty units applies to the offence (as at 1 July, 2010 is \$6,500).

An example Petition Template is included for reference.

EXAMPLE

A heading on each page indicating the subject matter.¹

As an example only

“PETITION REGARDING”

To the Mayor and Councillors of the Huon Valley Council

Include a clear and concise statement identifying the subject matter²

We the undersigned hereby request

Include a brief statement on each page of the subject matter and the action requested³

NAME	ADDRESS	SIGNATURE
Insert Name	Insert Address	Sign Here

Include a Statement specifying the number of signatories.^{4 *}

As an example only

“This petitions contains xxx signatories”

At the end of the petition include the full printed name, address and signature of the person lodging the petition.⁵

As an example only

“

.....

signed.

John Smithfield Smith of 101 Smiths Road, Smithville, in Tasmania.”

¹ See *Local Government Act 1993*, Section 57(2)(b)

² See *Local Government Act 1993*, Section 57(2)(a)

³ See *Local Government Act 1993*, Section 57(2)(c)

⁴ See *Local Government Act 1993*, Section 57(2)(d)

⁵ See *Local Government Act 1993*, Section 57(2)(e)

PART 6 - Petitions, polls and public meetings

Division 1 - Petitions

57. Petitions

- (1) A person may lodge a petition with a council by presenting it to a councillor or the general manager.
- (2) A person lodging a petition is to ensure that the petition contains –
 - (a) a clear and concise statement identifying the subject matter; and
 - (b) a heading on each page indicating the subject matter; and
 - (c) a brief statement on each page of the subject matter and the action requested; and
 - (d) a statement specifying the number of signatories; and
 - (e) the full printed name, address and signature of the person lodging the petition at the end of the petition.

58. Tabling petition

- (1) A councillor who has been presented with a petition is to –
 - (a) table the petition at the next ordinary meeting of the council; or
 - (b) forward it to the general manager within 7 days after receiving it.
- (2) A general manager who has been presented with a petition or receives a petition under subsection (1)(b) is to table the petition at the next ordinary meeting of the council.
- (3) A petition is not to be tabled if –
 - (a) it does not comply with section 57; or
 - (b) it is defamatory; or
 - (c) any action it proposes is unlawful.
- (4) The general manager is to advise the lodger of a petition that is not tabled the reason for not tabling it within 21 days after lodgment.

59. Petitions seeking public meetings

- (1) A petition under section 57 may request that a council hold a public meeting regarding the subject matter of the petition.
- (2) A council must hold a public meeting if the petition complies with section 57 and it is signed by whichever is the lesser of the following:
 - (a) 5% of the electors in the municipal area;
 - (b) 1 000 of those electors.
- (3) A petition that requests a public meeting is not to be made in respect of any matter relating to rates and charges in Part 9 if those rates or charges have been made for the current financial year.

60. Action on petition

- (1) The general manager, by notice in writing to the person who lodged the petition, is to –
 - (a) advise whether the petition complies with section 59, if it seeks a public meeting; and
 - (b) give reasonable notice of when the council is to consider the petition.
- (2) Within 42 days after the tabling of the petition –
 - (a) the general manager is to advise the council at a council meeting whether the petition complies with section 59, if applicable; and
 - (b) the council, at that meeting, is to determine any action to be taken in respect of the petition.
- (3) If the petition complies with section 59, or the council otherwise resolves to hold a public meeting regarding the subject matter of the petition, the council, within 30 days after the meeting referred to in subsection (2), is to hold a public meeting to discuss the subject matter of the petition.
- (4) The council is to record in the minutes of the meeting referred to in subsection (2) –
 - (a) the subject matter of the petition; and
 - (b) the number of signatories to the petition.

60A. Public meetings and submissions

- (1) Before holding a public meeting under [section 59](#) or [section 60\(3\)](#), a council, in a notice publicly displayed, must –
 - (a) state the date on which, and the time and place at which, the public meeting is to be held; and
 - (b) state the details of the subject matter; and
 - (c) invite written submissions in relation to the subject matter to be lodged with the general manager.
- (2) A copy of the notice under [subsection \(1\)](#) is to be –
 - (a) published on at least 2 occasions in a daily newspaper circulating in the municipal area; and
 - (b) sent to the person who lodged the petition.
- (3) A submission must be lodged within 21 days after the first publication of the notice.
- (4) Any submission received is to be summarised by the general manager in a document, copies of which are to be made available to those attending the public meeting.
- (5) The minutes of the next ordinary meeting of the council following the public meeting are to record –
 - (a) a summary of any submission received under this section; and
 - (b) any decision made at a public meeting held under this section.

Division 2 - Elector polls**60B. Council-initiated elector polls**

- (1) A council, on its own motion, may hold an elector poll on any issue the council determines.
- (2) An elector poll under [subsection \(1\)](#) may be conducted in any manner the council determines.

60C. Petition requesting elector poll

- (1) A council must hold an elector poll if –
 - (a) a petition requesting the elector poll is received within 30 days after a public meeting is held under [section 59](#) in relation to the same subject matter as that contained in the petition requesting that public meeting; and
 - (b) the petition is signed by at least 5% of the electors in the municipal area or 1 000 of those electors, whichever is the lesser; and
 - (c) the petition complies with [section 57\(2\)](#).
- (2) If –
 - (a) the person who lodged the petition agrees to an elector poll being held in conjunction with the next ordinary election; or
 - (b) a petition requesting an elector poll is received within 60 days before the notice of election for the next ordinary election –the elector poll may be held in conjunction with that next ordinary election.

60D. Elector polls

- (1) An elector poll under [section 60C](#) is to be –
 - (a) held within 60 days after the receipt of the petition, except as provided under [section 60C\(2\)](#); and
 - (b) held for the whole municipal area; and
 - (c) conducted as determined by the Electoral Commissioner or any other person authorised by the council.
- (2) An elector poll held in conjunction with an election is to be conducted as determined by the Electoral Commissioner.
- (3) A matter which is the subject of an elector poll is to be decided by a simple majority of the formal votes cast.
- (4) The general manager is to ensure that the result of an elector poll is published in a newspaper circulating in the municipal area.
- (5) A further elector poll on the same issue is not to be held until after the next ordinary election.

60E. Result of elector poll

- (1) A council is to discuss the result of an elector poll at its next ordinary meeting.
- (2) The result of an elector poll is not binding on a council.

Division 3 - General public meetings

60F. Public meetings

A council, on its own motion, may hold a public meeting to discuss any issue the council determines.

339B. Offences relating to petitions

(1) A person must not include in, or delete from, a petition the name of another person without that other person's consent.

Penalty: Fine not exceeding 50 penalty units.

(2) A person must not include in a petition a statement knowing it to be false or misleading.

Penalty: Fine not exceeding 50 penalty units.

(3) A person must not make a statement knowing it to be false or misleading to induce or attempt to induce another person to sign a petition.

Penalty: Fine not exceeding 50 penalty units.