LOCAL GOVERNMENT STANDARDS PANEL

Established under section 5.122 of the *Local Government Act 1995* (WA)

Complaint Number	SP 19 of 2014 DLGC 20140147
Legislation	*Local Government Act 1995* (WA)
Complainant	**Mr Adrian Wilson**
Subject of complaint	**Councillor Neville Robert Veitch**
Local Government	Shire of Augusta-Margaret River
Regulation	Regulation 11(2) of the *Local Government (Rules of Conduct) Regulations 2007*
Panel Members	Mr B Jolly (Presiding Member) Cr P Kelly (Member) Mr P Doherty (Member)
Heard	30 April 2014 (Determined on the documents)
Result	Public apology ordered

DECISION AND REASONS FOR DECISION

1. Definitions

1.1 In these Reasons, unless otherwise indicated:

(a) a reference to the *Act* is a reference to the *Local Government Act 1995*;

(b) a reference to a section is a reference to the corresponding section in the *Act;* and

(c) a reference to the *Regulations* is a reference to the *Local Government (Rules of Conduct) Regulations 2007*;

(d) a reference to a regulation is a reference to the corresponding regulation in *Regulations;* and

(e) words appearing in **bold** in the Panel's Finding and Reasons for Finding in this matter (**Breach Findings**) bear the same meaning in these Reasons.

2. Summary of Breach Findings

2.1 At its meeting on 3 February 2015 the Local Government Standards Panel (**Panel**) made a finding that Councillor Neville Robert Veitch, a member of the Council (**Council**) of the Shire of Augusta-Margaret River (**Shire**), committed a breach of regulation 11(2) by failing to disclose an impartiality interest at an Ordinary Council Meeting of the Shire held on 11 June 2014.

(**Minor Breach**)

3. Summary of Decision

3.1 The Panel considered how the Minor Breach is to be dealt with under section 5.110(6) and concluded, for the following reasons, that Cr Veitch should be ordered to make a public apology to the Councillors of the Shire in terms of Attachment "A" hereto.

4. Notice of the Minor Breach

4.1 By letter dated 20 March 2015, the Panel gave to Cr Veitch:

(a) notice of the Minor Breach (**Notice**);

(b) a copy of the Breach Findings; and

(c) a reasonable opportunity for him to make submissions about how the Minor Breach should be dealt with under section 5.110(6).

5. Cr Veitch's response and submissions

5.1 Cr Veitch responded to the Panel by email dated 13 April 2015 (**Submissions**) in which he said:

> "I acknowledge the Minor Breach and I am hoping its doesn't have to go further. The reason(s) for this is that I have already made a public apology. I given some time during an Ordinary Council Meeting where I acknowledged that I erred in my behaviour. I apologised to my fellow Councillors, the Press (who was present) and also the General Public.

It was reported in the local press. Given it was a minor breach, what I had to go through and my very public apology, I am hoping this may be the end of it. I finish my term this year and will not be re-contesting the seat."

6. Panel's views

6.1 Pursuant to clause 8(6) of Schedule 5.1 to the *Act*, each of the Panel's members is to have regard to the general interests of local government in the State.

6.2 Section 5.110(6) specifies the sanctions that may be imposed by the Panel for a Minor Breach. The Panel may:

(a) dismiss the Complaint;

(b) order that —

(i) the person against whom the Complaint was made be publicly censured as specified in the order;

(ii) the person against whom the Complaint was made apologise publicly as specified in the order; or

(iii) the person against whom the Complaint was made undertake training as specified in the order;

or

(c) order 2 or more of the sanctions described in paragraph (b).

6.3 In considering an appropriate sanction or sanctions for the present breach the Panel notes that:

(a) Cr Veitch has not previously been found to have committed any minor breach; and

(b) Cr Veitch:

(i) implicitly acknowledges that he committed the Minor Breach;

(ii) has made public apologies, including those recorded in an article headed "Veitch admits conflict gaffe" by Mr Hately published on page 3 of the Augusta Margaret River Times dated 20 June 2014 and an article headed "Veitch makes error apology public" by Mr Hately published on page 11 of the Augusta Margaret River Times dated 4 July 2014; and

(iii) has advised that his term as councillor expires during 2015 and he will not be re-contesting that position.

6.4 The Panel considers a breach of regulation 11(2) to be a serious matter and that the sanction imposed should serve as a reprimand aimed at reformation of the offending council member and prevention of further offending acts and also as a measure in support of the institution of local government and those council members who properly observe the standards of conduct expected of them.

6.5 The Panel notes that when it makes an order that a Notice of Public Censure be published, and that the Notice is to be published by the local government's CEO at the expense of the local government, such expense is significant where such publishing is to be in a newspaper or newspapers. In view of the matters set out in paragraph 6.3(a) above, the Panel does not consider that a public censure is warranted.

6.6 In the present case, on the evidence available to the Panel, it finds that it is more likely than it is not, that Cr Veitch did not deliberately fail to disclose the impartiality interest at the Ordinary Council Meeting of the Shire held on 11 June 2014.

6.7 However, the Panel considers that the need for Cr Veitch to have disclosed that interest was obvious (as is evidenced by the fact that Cr Veitch had disclosed that interest in relation to the February 2014 OCM of Council) and that his failure to do does not warrant dismissal of the Complaint.

6.8 The Panel notes that a public apology of the kind ordered by the Panel is a significant sanction, as it involves a high degree of public admonition of the conduct of the council member concerned.

6.9 In all the circumstances of this case, particularly those set out in paragraph 6.3 above, the Panel considers that it is appropriate that Cr Veitch be ordered to make a public apology to the Councillors of the City in terms of Attachment "A" hereto.

6.10 As there is no evidence to suggest that the Minor Breach occurred through Cr Veitch's' lack of knowledge or education on the issue or issues concerned and his advice that he will not be re-contesting his seat when his term expires this year, the Panel does not consider it would be appropriate to order that Cr Veitch attend training.

7. Panel decision

7.1 **Having regard to the Breach Findings, the matters set out in paragraphs 5 and 6 above, and the general interests of local government in Western Australia, the Panel's decision on how the Minor Breach is to be dealt with under section 5.110(6) is that pursuant to subsection (b)(ii) of that section, Cr Veitch is ordered to publicly apologise to the other Councillors of the City as set out in Attachment "A" hereto.**

Brad Jolly (Presiding Member)

Paul Kelly (Member)

Peter Doherty (Member)

NOTICE TO THE PARTIES TO THE COMPLAINT

RIGHT TO HAVE PANEL DECISION REVIEWED BY THE STATE ADMINISTRATIVE TRIBUNAL

The Local Government Standards Panel (**Panel**) hereby gives notice that:

(1) Under section 5.125 of the *Local Government Act 1995* **the person making a complaint and the person complained about each have the right to apply to the State Administrative Tribunal (the SAT) for a review of the Panel's decision in this matter.** *In this context, the term "decision" means a decision to dismiss the complaint or to make an order.*

(2) By rule 9(a) of the *State Administrative Tribunal Rules 2004*, subject to those rules **an application to the SAT under its review jurisdiction must be made within 28 days of the day on which the Panel (as the decision-maker) gives a notice** [see the Note below] **under the *State Administrative Tribunal Act 2004* (*SAT Act*), section 20(1).**

(3) **The Panel's *Breach Findings and these Findings and Reasons for Finding – Sanctions*, constitute the Panel's notice (i.e. the decision-maker's notice) given under the *SAT Act*, section 20(1).**

Note:

(1) This document may be given to a person in any of the ways provided for by sections 75 and 76 of the *Interpretation Act 1984*. [see s. 9.50 of the *Local Government Act 1995*]

(2) Subsections 75(1) and (2) of the *Interpretation Act 1984* read:

> *"(1) Where a written law authorises or requires a document to be served by post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used,* ***service shall be deemed*** *to be effected by properly addressing and posting (by pre-paid post) the document as a letter to the last known address of the person to be served, and,* ***unless the contrary is proved, to have been effected at the time when the letter would have been delivered in the ordinary course of post.*** [Bold emphases added]
>
> *(2) Where a written law authorises or requires a document to be served by registered post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, then, if the document is eligible and acceptable for transmission as certified mail, the service of the document may be effected either by registered post or by certified mail."*

(3) Section 76 of the *Interpretation Act 1984* reads:

> *"Where a written law authorises or requires a document to be served, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, without directing it to be served in a particular manner, service of that document may be effected on the person to be served —*
>
> *(a) by delivering the document to him personally; or*
>
> *(b) by post in accordance with section 75(1); or*
>
> *(c) by leaving it for him at his usual or last known place of abode, or if he is a principal of a business, at his usual or last known place of business; or*
>
> *(d) in the case of a corporation or of an association of persons (whether incorporated or not), by delivering or leaving the document or posting it as a letter, addressed in each case to the corporation or association, at its principal place of business or principal office in the State."*

Attachment "A"

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Panel Members	Mr B Jolly (Presiding Member) Cr P Kelly (Member) Mr P Doherty (Member)
Heard	30 April 2014 (Determined on the documents)

ORDER

THE LOCAL GOVERNMENT STANDARDS PANEL ORDERS THAT:

1. Neville Robert Veitch, a member of the Council of the Shire of Augusta-Margaret River, apologise publicly to the Councillors of the Shire, as specified in paragraph 2 or paragraph 3 below, as the case requires.

2. At the next Shire of Augusta-Margaret River Ordinary Council Meeting immediately following the date of service of this Order on Neville Robert Veitch:

(a) Neville Robert Veitch shall request the presiding person for his/her permission to address the meeting immediately following Public Question Time or during the Announcements part of the meeting or at such time during the meeting when it is open to the public as the presiding member thinks fit, for the purpose of the said Neville Robert Veitch making a public apology to Complainant; and

b) Neville Robert Veitch shall verbally address the Council as follows, without making any introductory words prior to the address, and without making any comment or statement after the address:

"I advise this meeting that:

(1) A complaint has been made to the Local Government Standards Panel about certain conduct by me as a member of this Council, at its meeting held on 8 July 2014, regarding a matter being the consideration of Scheme Amendment 20 and a Proposed Structure Plan regarding Lot 1 Darch Road, Margaret River, in contravention of regulation 11(2) of the Local Government (Rules of Conduct) Regulations 2007.

(2) The Local Government Standards Panel has considered the Complaint and has made a finding of minor breach, namely that at the 8 July 2014 Council meeting I committed a breach of regulation 11(2) of the Local Government (Rules of Conduct) Regulations 2007 by failing to disclose an impartiality interest in the matter (being that my sister-in-law was a co-owner of the Lot 1 Darch Road).

(3) I apologise to my fellow Councillors for not disclosing this interest to them at or before the 8 July 2014 Council meeting."

3. If Neville Robert Veitch fails or is unable to comply with the requirements of paragraph 2 above within 14 days after the next Shire of Augusta-Margaret River Ordinary Council Meeting immediately following the date of service of this Order on her, Neville Robert Veitch shall cause the following Notice of Public Apology to be published, in no less than 10 point print, as a one-column or a two-column display advertisement in the first 20 pages of the Augusta Margaret River Times newspaper.

PUBLIC APOLOGY

((1) A complaint has been made to the Local Government Standards Panel about certain conduct by me as a member of the Council of the Shire of Augusta-Margaret River, *at its meeting held on 8 July 2014, regarding a matter being the consideration of Scheme Amendment 20 and a Proposed Structure Plan regarding Lot 1 Darch Road, Margaret River, in contravention of regulation 11(2) of the Local Government (Rules of Conduct) Regulations 2007.*

(2) The Local Government Standards Panel has considered the Complaint, and has made a finding of minor breach, namely that at the 8 July 2014 Council meeting I committed a breach of regulation 11(2) of the Local Government (Rules of Conduct) Regulations 2007 by failing to disclose an impartiality interest in the matter (being that my sister-in-law was a co-owner of the Lot 1 Darch Road).

(3) I apologise to my fellow Councillors for not disclosing this interest to them at or before the 8 July 2014 Council meeting."

Neville Robert Veitch