

Code of Meeting Practice Policy

Local Government Act 2009



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1. Policy Statement

Council will conduct its meetings in accordance with relevant laws and this Code of Meeting Practice.

2. Principles

This Code of Meeting Practice complements the provisions of the *Local Government Act 2009* and *Local Government Regulation 2012* and incorporates the mandatory provisions contained in the Model Meeting Procedures published by the Department of Local Government, Gaming, Racing and Multicultural Affairs.

Together these provide procedures and standards for the proper conduct of business by Council at its meetings.

The Council has an obligation to act in accordance with the local government principles set out at Section 4 of the *Local Government Act 2009*, namely:

- (a) transparent and effective processes, and decision-making in the public interest;
- (b) sustainable development and management of assets and infrastructure, and delivery of effective services;
- (c) democratic representation, social inclusion and meaningful community engagement;
- (d) good governance of, and by, local government;
- (e) ethical and legal behaviour of Councillors and local government employees.

3. Scope

- (a) This Code of Meeting Practice applies to all ordinary and special meetings of the Council and the meetings of Standing Committees.
- (b) To the greatest extent possible this Code of Meeting Practice applies to Councillor workshops. It is specifically acknowledged that the portions of this Code dealing with decision-making processes are not applicable to those workshops as they are not decision-making meetings.
- (c) This Code of Meeting Practice applies to all participants in these meetings.
- (d) This Code of Meeting Practice does not apply to meetings of the Council's Audit and Risk Committee.

4. Responsibility

The Chairperson at a meeting is responsible for the conduct of the meeting.

The Chief Executive Officer is responsible for ensuring that notices, agendas, minutes and/or committee reports are prepared in accordance with the relevant legislation and the Code.

5. Confidentiality

Council has duties relating to the way in which it deals with the personal information of individuals and the confidential information of companies and government entities.

Councillors must preserve the confidentiality of information and must not:

- release information until the Councillor has verified that the information is not confidential; and
- conclude that the Councillor is free to discuss details about a topic simply because there has been some general public discussion about that topic.

Councillors are reminded that S. 200 (4) of the *Local Government Act 2009* makes it an offence punishable by up to 2 years imprisonment to:

- ... release information that the person knows, or should reasonably know, is information that—*
- (a) *is confidential to the local government; and*
 - (b) *the local government wishes to keep confidential.*

6. Policy

6.1. Council's Meeting Cycle

Council will meet in accordance with its adopted meeting cycle.

6.2. Notice of Meetings

- (a) The dates and times of Council's Ordinary meetings and the meetings of its Standing Committees must be published at least once a year, on the Council website and a notice displayed in Customer Contact Centre at 103 Walker Street, Townsville. Any changes to the dates and times of those meetings must also be published in the same way.¹
- (b) Written notice listing the matters to be discussed at Council's Ordinary, Special or Standing Committee meetings must be given to each Councillor at least two days before the meeting, unless it is impracticable to give the notice before that time. The notice must state the day and time of the meetings.
- (c) If written notice of a repeal motion has been given in accordance with Clause 6.7.8 then each Councillor must be given at least five days' notice before the meeting.²
- (d) A notice under this section may be in electronic form when Councillors have the facilities to access the notice, agenda and business paper in that form.

¹ S254B LGR 2012

² S262 LGR2012

6.3. Agenda for Meetings

- (a) The notice of meeting given to Councillors must include an agenda of the items to be discussed at the meeting. (It is accepted that the agenda might not include all reports and other material to be considered at the meeting).
- (b) A Councillor, who wants an item of business included on the agenda for a particular meeting must give written notice of the nature of the business to the Chief Executive Officer at least seven days before notice of the meeting is given. Such Items will include questions on notice, repeal motions or a notice of motion.
- (c) The Chief Executive Officer is to decide what matters are included in an agenda and the order in which matters are listed for consideration.

6.3.1. Post Election Meeting

The Chief Executive Officer will conduct the post-election meeting until the Mayor completes their Declaration of Office.

The order of business for the post-election meeting will be:

- Opening of meeting
- Prayer
- Declaration of Office - Mayor and Councillors
- Address by the Mayor
- Appointment of Deputy Mayor
- Consideration and Composition of Standing Committees
- Appointment of Committee Chairpersons
- Appointment to Special Committees, Advisory Committees, Statutory Bodies and other organisations
- such other business as the Mayor may direct

The order of business for the post-election meeting may not be altered.

6.3.2. Ordinary Meetings

The order of business for ordinary meetings will generally be:

- Opening of meeting
- Acknowledgment to Country
- Prayer
- Apologies and Leave of Absence
- Confirmation of Minutes of previous meetings
- Disclosure of interests statement
- Disclosure of Interests- Ordinary Council
- Disclosure of Interests- Standing Committees

- Mayoral Minute
- Correspondence
- Petitions
- Deputations
- Presentations
- Committee Reports
- Officers Reports
- Confidential Matters
- Notices of Motion
- General Business
- Close of meeting

Items must be considered in the order they are listed on the agenda for the meeting unless the Chairperson or the meeting by resolution decides to proceed in a different order.

6.3.3. Mayoral Minute

The Mayor may present the meeting with any issue which they consider relevant or necessary to bring to the attention of the Council. Unless the Mayor has provided Councillors with the content of a motion that the Mayor proposes to be put in the Mayoral Minute at least one clear business day before the meeting the motion may not be put. Debate on the motion shall take place in accordance with the Code of Meeting Practice Policy.

6.3.4. General Business

- (a) Councillors must be appropriately informed before making a decision, and for that reason:
- any matter which would or could be the subject of a Council report must not be included in General Business; and
 - questions or observations about operational issues must not be raised as General Business.

Raising such matters as General Business denies the operational arm of the Council the opportunity to provide Councillors with relevant information in advance of discussion about the matter, potentially leading to poor decision-making. To ensure that Councillors make informed decisions, these matters must be referred to the Chief Executive Officer sufficiently in advance of a decision being required to allow for necessary information to be provided. As a general guide, at least 8 business days' notice will be appropriate.

- (b) The General Business that may be raised by a Councillor is limited to informing Council about a proposal not directly related to the operational activities of the Council and seeking a decision from Council about that proposal.

Examples of such matters include:

- proposing a motion to be presented to the LGAQ,
- responses to requests from other levels of government for comment about a community issue.

- celebrating or highlighting a community event or a contribution by a member of the Townsville community, or the outcome of a Council initiative.
- expressing condolences in respect of a bereavement.

6.4. Special Meetings

The Chief Executive Officer must call a special meeting if:

- The special meeting is required by a resolution of Council; or
- The Chief Executive Officer receives a written request for a special meeting signed by the Mayor or by two or more Councillors and which specifies the object of the special meeting and proposes a day and time for the holding of the Special meeting.

The CEO may call a special meeting whenever necessary to have a matter dealt with earlier than is possible given the established meeting cycle.

Written notice of a special meeting must state the day and time of the meeting and the object of the meeting.³

Only the business stated in the notice of meeting may be conducted at a Special meeting.⁴

The order of business for a special meeting is to be generally in accordance with the order of business for Ordinary meetings.

6.5. Conduct of Meetings

6.5.1. Chairperson

Under section 12(4) of the LGA the Mayor has extra responsibilities in addition to those which all Councillors have. The Mayor is the Chairperson, leading and managing local government meetings, including managing the conduct of participants at the meeting. The Mayor may delegate another Councillor to perform the Mayor's extra responsibilities including acting as Chairperson when the Mayor is absent or temporarily incapacitated. Alternatively, if the Mayor has not delegated a Councillor to undertake responsibilities as Chairperson, under the provisions of section 165 of the LGA, the Deputy Mayor acts for the Mayor during the absence or temporary incapacity or when the office of Mayor is vacant.

The Mayor will be the Chairperson at a local government meeting at which the Mayor is present.

If the Mayor is absent from a local government meeting, the meeting will be chaired by the Councillor to whom the Mayor has delegated their responsibility to chair the meeting.

If the Mayor is absent or unavailable to chair the meeting, and has not delegated another Councillor to do so, the Deputy Mayor will be the Chairperson.

If the office of Mayor becomes vacant the Deputy Mayor acts as Mayor and Chairperson of the local government meetings

³ S254C LGR 2012

⁴ S254C LGR 2012

If the Mayor and the Deputy Mayor are both prevented from chairing the meeting because of absence or temporary incapacitation, and no other Councillor has been delegated the responsibility or appointed to act as Chairperson, the local government may by resolution appoint one of the Councillors present at the meeting to act as Chairperson for the duration of the meeting.

The local government may appoint the Chairperson for a committee. This Chairperson will preside over meetings of the committee. The Mayor is a member of each standing committee but not necessarily a member of every advisory committee. The Mayor is not necessarily the Chairperson of committee meetings.

If the Chairperson of a committee is absent or unavailable to chair, another Councillor who is chosen by the Councillors present, will be Chairperson of the committee meeting.

Before proceeding with the business of the local government meeting, the Chairperson at the meeting will undertake the acknowledgement and/or greetings deemed appropriate by the local government.

Note: *Section 12 of the LGA does not prescribe that other Councillors have the responsibility of chairing local government meetings. Other Councillors cannot assume the Chairperson role except when they are delegated by the Mayor to perform the extra responsibilities of a Mayor or a resolution has been passed by the Councillors present to select a Councillor to act as Chairperson of a particular meeting, because the Mayor, a delegated Councillor and the Deputy Mayor are unavailable. The provision for the Mayor to delegate the responsibility to be Chairperson to another Councillor caters for the possibility that the Mayor will not be the Chairperson of a particular local government meeting because the Mayor has, for example, a conflict of interest in a matter, or will be absent or incapacitated for that meeting.*

6.5.2. Chairperson's Role

The Chairperson's role is to manage the meeting, to preserve order and ensure proceedings are conducted efficiently and in a proper manner, by:

- determining whether to allow a Councillor to attend the meeting by teleconference.
- determining that the meeting is properly constituted and a quorum is present.
- informing Councillors as to the business and objectives of the meeting.
- deciding whether proposed motions and amendments are in order.
- deciding the order in which the business of the meeting will be conducted.
- deciding points of order and other incidental matters that require a decision.
- facilitating an exchange of views and ideas on key issues before the meeting.
- confining discussion to within the scope of the meeting and within reasonable limits of time.
- preserving order at the meeting.
- focusing on serving the public interest.
- putting relevant questions to the meeting and conducting a vote (and where authorised, giving a casting vote).
- declaring the result.
- ensuring the record of minutes of the meeting is maintained.

- declaring the meeting closed when its business is complete
- call the attention of the meeting to continued irrelevance or tedious repetition on the part of any Councillor; and
- direct the Councillor to discontinue a speech.

6.5.3. Councillor's Role

- All Councillors have a responsibility to participate in Council meetings, policy development and decision making, for the benefit of the local government area.
- After a meeting of the Council has commenced, a Councillor must not enter, leave or withdraw from the meeting without first notifying the Chairperson.
- Mobile telephones and audible pagers must be turned off or placed in silent mode in the meeting room.
- During meeting Councillors must:
 - participate in Council meetings and decision-making for the benefit of the local government area.
 - decide each matter having regard to relevant facts and considerations, and with an open mind, without adopting a fixed position founded upon a pre-conception.
 - confine their remarks to matters then under consideration.
 - act with due decorum in order that the meeting is conducted in an efficient and effective manner.
 - not make personal reflections on or impute improper motives to any other Councillor or Council employee.
 - not make a noise or disturbance or converse aloud while another person is addressing the Council.
 - not interrupt another speaker except upon a point of order being raised by either the Chairperson or by a Councillor.
 - focus upon matters before the meeting, and not give attention to email or text messages unrelated to the matter under discussion.
 - speak to each other or about each other by their respective titles ('Mayor' or 'Councillor').
 - Immediately cease speaking when the Chairperson speaks during the process of a debate and observe strict silence so that the Chairperson may be heard without interruption.

6.6. Attendance at Meetings

6.6.1. Attendance at Meetings in Person or by Teleconference

- Each Councillor must attend each meeting in person unless:
 - the Councillor is unable to participate in the meeting in person for reasons of ill-health (including the ill-health of a family member or dependent) or the Councillor is on a period of approved leave (For clarity, leave for the Councillor may be approved at a

- meeting at which the Councillor is not present), or
- the Councillor has sought and obtained permission from the Chairperson to attend the meeting by teleconferencing.
- (b) “Teleconferencing” means the use of a telephone, video conference equipment, or other means of instant communication that allows a person to take part in discussions as they happen.
- (c) If a Councillor wishes to participate in the meeting by teleconferencing, the Councillor must apply to the Chairperson to participate by teleconference, at least three business days prior to the meeting or as soon as practicable once the Councillor becomes aware of their intended absence.
- (d) The Chairperson has discretion as to whether to allow a Councillor to participate in a meeting by teleconference. When making the decision the Chairperson will consider the reason for the request and must consider whether the participation by teleconference may negatively impact upon the efficient and proper conduct of the meeting.
- (e) A Councillor taking part by teleconference is taken to be present at the meeting if the Councillor was simultaneously in audio contact with each other person at the meeting. The attendance of the Councillor must be recorded in the minutes as present at the meeting.
- (f) A Councillor who has obtained permission to attend the meeting by teleconference must provide the Chairperson with the Councillor’s contact details as soon as possible. The meeting will make contact with the Councillor at the commencement of the meeting to join them to the meeting.

6.6.2. Quorum

- (a) The quorum for an Ordinary or Special Council meeting is a majority of Councillors who hold office. However, if the number of Councillors is an even number, one-half of the number is a quorum.⁵
- (b) The quorum for a Standing Committee meeting, if one is established, is a majority of the Councillors appointed to that committee. However, if the number of appointed Councillors is an even number, one-half of the number is a quorum.
- (c) The meeting must commence business at the time appointed for holding the meeting.
- (d) If a quorum is not present within 15 minutes after the time appointed for a meeting, the meeting may be adjourned to a later hour or another day within 14 days after the day of adjournment, by—
- a majority of the Councillors present; or
 - if only 1 Councillor is present—the Councillor; or
 - if no Councillors are present—the Chief Executive Officer.
- (e) Business must not be conducted at a meeting unless a quorum is present.⁶

⁵ S259 LGR 2012

⁶ S254E LGR 2012

- (f) A Councillor will be deemed to be present at a meeting only when:
- that Councillor is within the room in which the meeting is held; or
 - the Councillor has been permitted to take part in a meeting by teleconferencing.⁷

6.6.3. Loss of Quorum

In the event where one or more Councillors leave a Council or standing committee meeting due to a prescribed or declarable conflict of interest in a matter that results in a loss of a quorum for deciding the matter, all the Councillors including the conflicted Councillors must resolve to:

- (a) Delegate the consideration and decision on the matter, pursuant to section 257 of the LGA unless the matter cannot be delegated
- (b) Defer the matter to a later meeting
- (c) Not decide the matter and take no further action in relation to the matter unless the LGA or another Act provides that the Council must decide the matter.

Council must not delegate a decision to an entity if the entity, or a majority being at least half of its members, has a prescribed or declarable conflict of interest in the matter.

The Council must not delegate a power that an Act says must be decided by resolution of the Council under section 257(3) of the LGA.

The Council may by resolution delegate a power under section 257 of the LGA to:

- (a) The Mayor or chief executive officer, or
- (b) A standing committee, or joint committee of the Council, or
- (c) The chairperson of a standing committee or joint standing committee of the Council or
- (d) Another local government for a joint government activity.

The Council may only delegate a power to make a decision about a Councillors conduct under section 150AE or 150AG of the LGA pursuant to section 257(2) of the LGA, to:

- (a) The Mayor or
- (b) A standing committee.

The Minister for Local Government may, by signed notice give approval for a conflicted Councillor to participate in deciding a matter in a meeting including being present for the discussion and vote on the matter, if there is a loss of quorum and deciding the matter cannot be delegated, subject to any conditions the Minister may impose.

6.6.4. Standards of Attire

- (a) Councillors are required to behave in a way that upholds the good reputation of Townsville, and as such they are required to dress professionally, reflecting pride in Townsville and respect for all people they deal with, particularly the public.

⁷ S254K LGR 2012 and 277A LGR 2012, ff

In some circumstances, Councillors may be required to adopt a particular dress standard for an event, ceremony or function, which may include wearing a uniform, safety clothing, business or formal attire.

Where such standards are required, they must be complied with. In the absence of any dress standard being specified by the relevant event, ceremony or function organisers, Councillors are expected to wear business attire.

- (b) When attending Council offices or depots, Councillors are required to comply with safety standards and wear and use Personal Protective Equipment (PPE) applicable to the site. Where no PPE requirements apply, Councillors are required to dress to a professional standard.
- (c) All Councillors when attending meetings of Council, are required to maintain a professional dress code and personal hygiene. The recommended professional dress code at such meetings is as follows:

Ordinary Meeting of Council

- long sleeve business shirt with tie, long trousers and jacket or a suit, business suit, dress or skirt/long pants and blouse or other appropriate business apparel

Other meetings, excluding workshops

- open neck, long sleeve business shirt and long trousers (jacket optional), business suit, dress or skirt/long pants and blouse or other professional apparel

Workshops

- business apparel or smart casual wear

During meetings the Chairperson may invite attendees to remove their jackets.

6.6.5. Absence from Meetings

If a Councillor is absent without having obtained leave of absence or submitting apologies from 2 consecutive Ordinary meetings of Council, that Councillor's seat becomes vacant.⁸

6.6.6. Attendance of Public at Council Meetings

- (a) Except where the Council, acting under its powers in the *Local Government Regulation 2012* (outlined in Section 6.9 of this Code) resolves to close a meeting, every meeting of the Council will be open to the public.
- (b) Members of the public are permitted in the public gallery or area set aside for the public. Space constraints including constraints relating to social distancing may result in the Council limiting the number of members of the public who may attend a meeting.
- (c) Members of the public must maintain good order at meetings in accordance with *Local Law No. 1 (Administration) 2011*.⁹

⁸ S162(1)(e) LGA 2009

⁹ Local Law No. 1 (Administration) S34

- (d) Mobile telephones and audible pagers must be turned off or placed in silent mode in the meeting room, including any area set aside for the public.
- (e) Members of the public may participate in Council meetings, by way of a deputation.
- (f) A copy of the agenda will be made available to members of the public, except for items to be considered in closed session.

6.6.7. Attendance by the Media

- (a) Representatives of the press, radio and television may attend meetings in the area set aside for the media.
- (b) A copy of the agenda will be furnished to media representatives at or immediately prior to the opening of the meeting.

6.6.8. Audio or Video Recording of a Meeting

- (a) Council will live stream each Ordinary Council meeting on the Council website.
- (b) It is an offence for a person to make an audio or video recording of a meeting without the written consent of the Chairperson, unless the person is an authorised person making the recording for the purpose of verifying the Minutes of the meeting.¹⁰

6.6.9. Deputations

- (a) A person or group wishing to be received as a deputation by the Council:
 - must make written request at least seven days before the meeting, to the Chief Executive Officer setting out the matter to be raised by the deputation and specifying the name and address of the person authorised to receive notices on behalf of the deputation; or
 - may be invited by the Chairperson to address Council on a matter listed on the agenda for which they have an interest, without notice.
- (b) The Chief Executive Officer must inform the Chairperson immediately upon the receipt of the request. Unless otherwise directed by the Chairperson, the Chief Executive Officer must list the hearing of the deputation on the next Ordinary meeting agenda and give to the person specified in the request notice of the time and date when the deputation will be heard.
- (c) The Chairperson will determine the number of people in the deputation who will be permitted to address Council or respond to questions.
- (d) The appointed speakers must restrict their addresses to (a total for all speakers of) not more than five minutes or as determined by the Chairperson.
- (e) If a member of the deputation other than the appointed speaker/s interjects or attempts to address the Council, the Chairperson may warn the deputation that a repetition may

¹⁰ Section 35 of Local Law No. 1 (Administration) 2011

result in the deputation not being further heard.

- (f) If there is further interjection after the Chairperson has given the warning the Chairperson may call on the next item of business.
- (g) Unless the Council otherwise resolves, the effect of calling on the next business is that the deputation will not be heard further at that meeting and, if the deputation wishes to be heard at a subsequent meeting, a fresh request must be given to the Chief Executive Officer.

6.6.10. Petitions

Any petition presented to a meeting of Council must be prepared in accordance with Council's procedure for petitions.

On presentation of the petition the Councillor must state the nature of the petition. The Council will determine whether:

- the petition be received and no further action be taken; or
- the petition not be received; or
- that the relevant department investigate and report back to Council for further consideration.

6.7. Procedures for Making Determinations

A decision by a majority of votes at an Ordinary or Special meeting, at which a quorum is present, is a decision of the Council.

6.7.1. Motions

- (a) A Councillor is required to 'move' a motion. The Chairperson may require a motion or amendment to a motion to be stated in full or be in writing before permitting it to be received.
- (b) A Councillor may request further information from or through the Chairperson before or after the motion or amendment is seconded but prior to the right of reply being exercised.
- (c) If a Councillor wants the motion to be considered by the Council, then that Councillor may 'second' the motion. For clarity, seconding a motion does not commit a Councillor to voting in support of the motion.
- (d) When a motion has been moved and seconded, it becomes subject to the control of Council and must not be withdrawn without the consent of Council.
- (e) Other Councillors can propose amendments to the motion which must be voted on before voting on the final motion.
- (f) A motion brought before a meeting of Council in accordance with the *Local Government Act 2009* and this Code of Meeting Practice will be received and put to the meeting by the Chairperson. The Chairperson may require a motion or amendment to a motion to be stated in full or be in writing before permitting it to be received.
- (g) The Chairperson may refuse to accept a motion if it is not within the meeting's jurisdiction

and rule a motion out of order if necessary. Any motion that is vague, proposes an unlawful action, is outside the scope of the meeting, is defamatory, vexatious or is unnecessary, may be ruled out of order.

- (h) The Chairperson may call the notices of motion in the order that the Chairperson decides and is not bound to deal with the notices in the order that they appear on the agenda.
- (i) The Chairperson may put a motion to the vote without discussion (note that pursuant to clause 6.8.2 of this Code, when the Council believes that the motion is worthy of debate, the Council may by resolution dissent from the Chairperson's decision and allow discussion to occur).
- (j) Not more than one motion or one proposed amendment to a motion may be put before a meeting of a local government at any one time.

6.7.2. Absence of Mover of Motion

When a Councillor who has given notice of a motion is absent from the meeting of Council at which the motion is to be considered, the motion may be:

- moved by another Councillor at the meeting, or
- deferred to the next meeting.

6.7.3. Motion to be Seconded

A motion or an amendment to a motion must not be debated at a meeting of Council unless or until the motion or the amendment is seconded. This requirement does not apply to Procedural Motions.

6.7.4. Amendment

- (a) An amendment to a motion must be in terms which maintain or further clarify the intent of the original motion and do not contradict the motion.
- (b) Not more than one motion or one proposed amendment to a motion may be put before a meeting of Council at any one time.
- (c) An amendment can be made with consent of the mover and seconder of the original motion.
- (d) Where the consent to an amendment of a motion is not provided by the mover and seconder of the original motion, the proposed amendment to the motion must be moved, seconded and determined by Council. When the Council resolves to amend the motion in this situation, the mover of the amendment is taken to have moved the motion and can speak to the motion and have the right of reply.
- (e) Where an amendment to a motion is before a meeting of Council, no other amendment to the motion is to be considered until after the first amendment has been put, however before the debate is conducted a Councillor may foreshadow another amendment should the motion be lost.
- (f) A Councillor may foreshadow an amendment to a motion should the motion be lost. The foreshadowed amendment does not require a seconder.

- (g) Where a motion is amended by another motion, the original motion must not be put as a subsequent motion to amend that other motion.

6.7.5. Speaking to Motions and Amendments

- (a) The mover of a motion or amendment must read it into the meeting record and state that it is so moved but must not speak to the motion until it is seconded.
- (b) The Chairperson will manage the debate by:
- putting the motion to the vote after it is seconded without discussion (note that pursuant to clause 6.8.2 of this Code, when the Council believes that the Motion is worthy of debate, the Council may by resolution dissent from the Chairperson's decision and allow discussion to occur); or
 - allowing the Councillor who proposed the motion the option of speaking first on the motion. The Chairperson will then call on each other Councillor who wishes to speak against the motion and then alternatively for and against the motion as required.
- (c) A motion or amendment may be withdrawn by the mover with the consent of Council, which will be signified without debate, and a Councillor must not speak upon the withdrawn motion or amendment after the mover has been granted permission by Council for its withdrawal.
- (d) The mover of a motion or amendment will have the right to reply. Unless the Chairperson rules otherwise, each Councillor will speak no more than once to the same motion or same amendment except as a right of reply.
- (e) Unless the Chairperson rules otherwise, the time limits applicable to each speaker are:
- Four minutes for the Councillor moving the motion;
 - Three minutes for each Councillor speaking against or in support of the motion; and
 - Two minutes for the Councillor exercising the right of reply.
- (f) Where two or more Councillors indicate they may wish to speak at the same time, the Chairperson will determine the order in which the Councillors speak.
- (g) When a Councillor votes against a motion that relates to a planning application, the Councillor must give reasons that explain the planning considerations that caused the Councillor to vote against the motion.
- (h) Councillors must give reasons under Section 254H of the *Local Government Regulation 2012* when a decision made at a meeting is inconsistent with a recommendation or advice given to Council by an employee engaged to provide services of the Council and either or both of the following apply to the decision—
- the decision is about entering into a contract the total value of which is more than the greater of the following—
 - \$200,000 exclusive of GST;
 - 1% of the local government's net rate and utility charges as stated in the local government's audited financial statements included in the local government's most recently adopted annual report;
 - the decision is inconsistent with a policy of the local government, or the approach

ordinarily followed by the local government for the type of decision.
Examples of decisions to which this section might apply—

- the grant of a licence, permit or approval, however named, under an Act or local law
- the grant of a concession, rebate or waiver in relation to an amount owed to the local government
- the disposal of land or a non-current asset

6.7.6. Method of Taking Vote

- (a) The Chairperson will call for all Councillors in favour of the motion to indicate their support. The Chairperson will then call for all Councillors against the motion to indicate their objection. Names in favour and against the motion will always be recorded in the minutes unless carried unanimously.
- (b) In the event of an equality of votes, the Chairperson has a casting vote. The Chairperson must advise the meeting that they are exercising their right to use the casting vote.
- (c) A Councillor must advise the Chairperson if they intend to abstain from the vote and the reason for abstaining. To effectively abstain a Councillor must request and obtain the Chairperson's permission to leave the meeting while the decision is made. If a Councillor present in the meeting does not vote for or against a motion their vote will be recorded in the negative i.e., as a vote against the motion¹¹. Whether the abstaining Councillor leaves or remains in the meeting, the abstaining Councillor must give reasons to explain why the Councillor is abstained from voting.
- (d) The Chairperson must declare the result of a vote as soon as it has been determined. The minute secretary must record the names of Councillors voting in the affirmative and of those voting in the negative.
- (e) Except upon a motion to repeal or amend it, the resolution must not be discussed after the vote has been declared.
- (f) If a report contains distinct recommendations, the decision of Council may be taken separately on each recommendation.

6.7.7. Amendment or Withdrawal

A motion or amendment may be withdrawn by the mover with the consent of the Council, which will be without debate, and a Councillor will not speak to the motion or amendment after the mover has been granted permission by the Meeting for its withdrawal.

6.7.8 Repeal

- (a) A resolution of Council may not be amended or repealed unless notice of motion is given to

¹¹ S260(2)(d) LGR 2012

- each Councillor at least 5 days before the meeting at which the proposal is to be made.¹²
- (b) A notice to repeal a motion that directly or indirectly seeks to have a defeated motion (“the original motion”) reconsidered and passed must not be brought within three months of the original motion being defeated.
 - (c) The meeting by resolution may suspend the operation of clauses 6.7.8(a) and (b) to allow the earlier consideration of the notice of motion.

6.8. Procedural Motions

A Councillor may, during the debate on a matter at a Council meeting, move any of the Procedural Motions listed in this clause 6.8.

6.8.1. Point of Order

Any Councillor may ask the Chairperson to decide on a point of order where it is believed that another Councillor:

- has failed to comply with proper procedures;
- is in contravention of the legislation; or
- is beyond the jurisdiction power of the Council meeting.

Upon the question of order suddenly arising during the process of a debate, a Councillor may raise a point of order, and then the Councillor against whom the point of order is raised, will immediately cease speaking. Notwithstanding anything contained in these standing orders to the contrary, all questions or points of order at any time arising will, until decided, suspend the consideration and decision of every other question.

Note: Points of order cannot be used as a means of contradicting a statement made by the Councillor speaking. When a point of order is moved, consideration of the matter to which the motion was moved will be suspended. Subject to section 6.8.2, the Chairperson will determine whether the point of order is upheld.

6.8.2. Motion of Dissent

- (a) A Councillor can, without notice, move to dissent from the ruling of the Chairperson on a point of order to suspend further consideration of any matter until after the procedural motion is determined.
- (b) Only the mover of the procedural motion, then the Chairperson, may speak to the procedural motion, no other members may speak. When speaking to a Motion of Dissent against the Chairperson’s decision to put a motion to debate without discussion, the mover must not use that opportunity to speak to the original motion.
- (c) The Chairperson must put the procedural motion to the meeting and if carried, the

¹² S262(1)(e) LGR 2012

Chairperson must proceed as though that ruling had not been made; or if lost, the ruling of the Chairperson will stand.

6.8.3. Motion Be Put

- (a) A Councillor may, at the conclusion of the speech of another Councillor, move, without notice and without comment, that the motion be put to a vote, and upon that motion being seconded and carried with the consent of a majority of Councillors then present, the matter must immediately be put to a vote without debate.
- (b) A motion that the matter under consideration be put to a vote may not be moved by a Councillor who has already spoken on the motion.
- (c) When it is decided by the Council that the matter under consideration be put to a vote, the mover has the right of reply. The right of reply should be limited to no more than two minutes. At the conclusion of the right of reply the motion must be put to a vote immediately.

6.8.4. That a Councillor Not Be Heard

- (a) A Councillor may at any time during the progress of a debate move that a Councillor who is speaking not be further heard.
- (b) Upon a motion that a Councillor not be further heard being seconded, it must be immediately put by the Chairperson without debate. If the motion is carried the subject Councillor must cease speaking.
- (c) A second motion that a Councillor not be further heard must not be made during the course of debate on the same matter unless in the opinion of the Chairperson the character of the speech has materially altered.

6.8.5. That the Chief Executive Officer Be Requested to Bring a Response to a Future Meeting

A procedural motion may be brought asking the Council to resolve to request the Chief Executive Officer to bring a response to a future meeting.

6.8.6. That the Meeting Proceeds to the Next Item of Business

Where a procedural motion that the meeting proceed to the next item is carried, debate on the matter that is the subject of the motion will cease and may be considered again by the Council after the giving of notice in accordance with the Code of Meeting Practice.

6.8.7. That the Motion or Amendment Now before the Meeting Be Adjourned to a Later Time or Subsequent Meeting

The procedural motion, that the motion or amendment now before the meeting be adjourned, may specify a time or date, to which the debate will be adjourned. Where no date or time is specified:

- a further motion may be moved to specify a time or date; or
- the matter about which the debate is to be adjourned, will be included in the business paper for the next meeting.

6.8.8. To Suspend the Rule in the Code of Meeting Practice That (Refer to Relevant Portion of Code)

A procedural motion, '*to suspend the rule requiring that...*', may be made by any Councillor in order to permit some action that otherwise would be prevented by a procedural rule. A motion to suspend a rule will specify the duration of the suspension.

6.8.9. That the Meeting Stands Adjourned

A procedural motion, that the meeting stands adjourned, may be moved by a Councillor at the conclusion of debate on any matter on the business paper or at the conclusion of a Councillor's time for speaking to the matter, and will be put without debate. Such a procedural motion will specify a time for the resumption of the meeting and on resumption of the meeting, the Council meeting will continue with the business before the meeting at the point where it was discontinued on the adjournment.

6.9. Closed Meetings

- (a) Council meetings, standing and advisory committee meetings may resolve that a meeting be closed to the public if its Councillors and members consider it necessary to discuss any of the following matters:
- appointment, dismissal or discipline of the CEO,
 - industrial matters affecting employees,
 - the local government's budget, which does not include the monthly financial statements
 - rating concessions,
 - legal advice obtained by the local government or legal proceedings involving the local government, including legal proceedings that may be taken by or against the local government,
 - matters that may directly affect the health and safety of an individual or a group of individuals,
 - negotiations relating to a commercial matter involving the local government for which a public discussion would be likely to prejudice the interests of the local government,

- negotiations relating to the taking of land by the Council under the *Acquisition of Land Act 1967*,
 - a matter that the local government is required to keep confidential under a law of, or a formal agreement, with, the Commonwealth or State.
 - A matter relating to the consideration of an investigation report for an investigation of a conduct breach given to the Council under the LGA chapter 5A, part 3, division 5.
- (b) A Council meeting, standing and advisory committee meeting cannot resolve that a meeting be closed where the meeting is informed of a Councillor's personal interest in the matter by another person and the eligible Councillors at the meeting must decide by resolution whether the Councillor has a declarable conflict of interest in the matter.
- (c) Further, the meeting must not be closed if a quorum is lost due to the number of conflicted Councillors who leave the meeting and the Council must resolve to;
- delegate consideration of the matter, unless the matter cannot be delegated,
 - defer the matter to a later meeting when a quorum may be available,
 - not decide the matter and take no further action in respect of the matter, unless the LGA or another Act provides that the Council must decide the matter.

None of the above will be considered, discussed, voted on or made during a closed session.

- (d) If a closed session includes attendance by teleconference, the Councillor/s attending by teleconference must maintain confidentiality by ensuring no other person can hear their conversation while in the closed meeting.
- (e) To take a matter into a closed session the Council must abide by the following:
- Pass a resolution to close the meeting.
 - The resolution must state the matter to be discussed, an overview of what is to be discussed and why the meeting should be closed while the matter is considered.
 - If the matter is known in advance, the agenda should clearly identify that the matter will be considered in closed session, and an explanation of why it is deemed necessary to take the issue into closed session must be stated.
 - Not make a resolution while in a closed meeting (other than a procedural resolution).

6.10. Process for Dealing with Unsuitable Meeting Conduct by a Councillor in a Meeting

The conduct of a Councillor is unsuitable meeting conduct if the conduct happens during a Council meeting and contravenes a behavioural standard of the Code of Conduct for Councillors. When dealing with an instance of unsuitable conduct by a Councillor in a meeting, the following procedures must be followed:

- 6.10.1 The Chairperson must reasonably believe that unsuitable meeting conduct has been displayed by a Councillor at a meeting.
- 6.10.2 If the Chairperson decides the unsuitable meeting conduct has occurred, the Chairperson may consider the severity of the conduct and whether the Councillor has had any previous warnings for unsuitable meeting conduct issued. If the Chairperson decides the conduct is

of a serious nature or another warning is unwarranted, proceed to 6.10.7.

- 6.10.3 If the Chairperson decides unsuitable meeting conduct has occurred but is of a less serious nature, the Chairperson may request the Councillor take remedial action such as:
- (a) ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct,
 - (b) apologising for their conduct,
 - (c) withdrawing their comments.
- 6.10.4 If the Councillor complies with the Chairperson's request for remedial action, no further action is required.
- 6.10.5 If the Councillor fails to comply with the Chairperson's request for remedial action, the Chairperson may warn the Councillor that failing to comply with the request could result in an order being issued.
- 6.10.6 If the Councillor complies with the Chairperson's warning and request for remedial action, no further action is required.
- 6.10.7 If the Councillor continues to fail to comply with the Chairperson's request for remedial action or the Chairperson decided a warning was not appropriate under 6.10.3, the Chairperson may make one or more of the orders below:
- (a) an order reprimanding the Councillor for the conduct,
 - (b) an order requiring the Councillor to leave the meeting, including any area set aside for the public and stay out for the duration of the meeting.
- 6.10.8 If the Councillor fails to comply with an order to leave and stay away from the meeting, the Chairperson can issue an order that the Councillor be removed from the meeting.
- 6.10.9 Any Councillor aggrieved with an order issued by the Chairperson can move a motion of dissent for clauses 6.10.1, 6.10.7 and 6.10.8.
- 6.10.9 Following the completion of the meeting, the Chairperson must ensure the minutes record the information about unsuitable meeting conduct (see note):
- Note: Details of any order issued is recorded in the minutes of the meeting. If it is the third or more order made within a 12-month period against a Councillor, or the Councillor has refused to comply with an order issued to leave the meeting, these matters are dealt with at the next meeting of the Council as a suspected conduct breach. The Chief Executive Officer is advised to ensure details of any order made is updated in the Council's Councillor conduct register.*

6.11. Process for Dealing with Unsuitable Meeting Conduct by a Chairperson in a Meeting

- 6.11.1 If a Councillor at the meeting reasonably believes that the conduct of the chairperson during the meeting is unsuitable meeting conduct, the Councillor will raise the matter in the meeting by point of order.

- 6.11.2 The chairperson may correct their unsuitable meeting conduct or if they do not properly correct their behaviour, the Councillor may move a motion that the Councillor has engaged in unsuitable meeting conduct (a seconder for the motion is required). Councillors present, excluding the chairperson, must decide by resolution if the conduct is unsuitable meeting conduct.
- 6.11.3 The chairperson has a declarable conflict of interest in the matter and must leave the place where the meeting is being held, including any area set aside for the public, during the debate and vote on the matter. If the chairperson wishes to remain in the meeting, the eligible Councillors must make a decision and follow the procedures set out in clause 6.14.
- 6.11.4 For the debate and vote on the motion, a Councillor other than the Councillor that moved the motion, is to act as the chairperson.
- 6.11.5 If the original chairperson remains in the meeting, on the condition that they will not vote on the matter as determined by the eligible Councillors, they can put forward their reasoning about their conduct, and respond to questions through the chairperson from the eligible Councillors.
- 6.11.6 The acting chairperson of the meeting will preside over the meeting while the Councillors present at the meeting vote on whether the chairperson has engaged in unsuitable meeting conduct (the acting chairperson will have a casting vote on the resolution if required).
- 6.11.7 If it is decided that the chairperson has engaged in unsuitable meeting conduct the Councillors can make an order reprimanding the chairperson for the conduct.
- 6.11.8 Once the Councillors make a decision, the chairperson returns to the meeting (unless they have been permitted to remain in the meeting) and is informed of the decision by the acting chairperson.
- 6.11.9 The chairperson then resumes the role of chairperson, and the meeting continues.

Note: Details of any reprimand order are recorded in the minutes of the meeting. The Chief Executive Officer is advised to ensure a notation of any order made is updated in the Council's Councillor conduct register.

For conduct of a chairperson, at Council meetings that is part of a course of conduct leading to a reprimand order for unsuitable meeting conduct being made against the chairperson, on three occasions within a period of 12 months, the conduct that led to the orders being made, taken together, becomes a conduct breach.

If the conduct of a Councillor, including a chairperson, at the meeting becomes a conduct breach; in accordance with section 150J of the LGA, and is a conduct breach under section 150K(2)(b) and (3) of the LGA, the Council is not required to notify the Independent Assessor about the conduct; and may deal with the conduct under section 150AG as if an investigation had been conducted. It may be dealt with at the next Council meeting.

6.12. Meeting Procedures for Dealing with a Suspected Conduct Breach Including That which Has Been Referred to Council by the Independent Assessor

Under Chapter 5A, part 3, division 3A of the LGA the Independent Assessor must make a preliminary assessment and consider dismissing a complaint, notice or information before taking other action if satisfied that particular circumstances apply. If the Independent Assessor assesses that a matter is a suspected conduct breach it must refer the matter to the local government. The assessor refers the Councillor's suspected conduct breach to the local government by giving a referral notice.

Note: Conduct breach is conduct that contravenes a behavioural standard of the code of conduct for Councillors, or a policy, procedure or resolution of the Council; or the conduct contravenes an order of the chairperson of a meeting for the Councillor to leave and stay away from the place at which the meeting is being held; or a third or more order is made under clause 6.10 or 6.11 within a 12-month period against a Councillor and becomes a suspected conduct breach.

- 6.12.1 In relation to matters referred by the Independent Assessor to the Council, the Council may decide not to start or discontinue an investigation if the complainant withdraws the complaint, or consents to the investigation not starting or discontinuing, or the complainant does not provide extra information when requested, or there is insufficient information to investigate the complaint, or the Councillor vacates or has vacated their office as a Councillor.

Note: The Council investigation must be conducted in a way that is consistent with the Council's investigation policy. An investigation report must be prepared to assist the Councillors in making a decision on the outcome under section 150AG of the LGA. Before debating a matter relating to making a decision, a summary investigation report (with redactions) must be prepared and made publicly available under section 150AFA of the LGA on or before the day and time prescribed by regulation.

- 6.12.2 The Council must decide in a Council meeting, whether the Councillor has engaged in a conduct breach. Unless in accordance with section 150AG of the LGA, it has delegated responsibility for this decision to the Mayor under section 257(2)(a), or to a standing committee section 257(2)(b) of the LGA.

- 6.12.3 When dealing with an instance of a suspected conduct breach which has been referred to a Council by the Independent Assessor:

- (a) The Council must be consistent with the local government principle of transparent and accountable decision making in the public interest by deciding the outcome of an investigation of a suspected conduct breach in an open meeting of the Council. However, where the matter requires debate a Council may close all or part of a meeting to the public, if considered necessary, to discuss an investigation report under LGR section 254J.
- (b) No resolution for a decision can be made in the closed session. The matter must be decided in an open session of the meeting or at a later meeting.
- (c) Where a Council makes a decision about a conduct breach matter at a Council meeting that is inconsistent with a recommendation made about that matter in an investigation report, a statement of the reasons for the inconsistency must be included in the minutes of the meeting under the LGR section 254H.

- (d) The subject Councillor has a declarable conflict of interest in the matter but may remain in the closed meeting (unless the Council decides otherwise), during the debate about the investigation report and answer questions put to the subject Councillor through the chairperson in relation to the evidence or written submission provided by the Councillor to the Council.
- (e) The subject Councillor who has a declarable conflict must leave the place where the meeting is being held, including any area set aside for the public, during the vote on whether they have engaged in a conduct breach and what, if any, penalty to impose if the Councillor is found to have engaged in a conduct breach.
- (f) If the complainant is a Councillor, that Councillor has a declarable conflict of interest in the matter and if so, must follow the declarable conflict of interest procedures in clause 6.14. If the complainant Councillor who has a conflict of interest, wishes to remain in the meeting during the debate and vote on the matter, the other eligible Councillors (do not have a COI in the matter) must decide how to deal with the conflict of interest under clause 6.14. The complainant Councillor can be ordered to leave the meeting place or conditions may be applied to allow that Councillor to participate in either the debate, the vote, or the decision on any disciplinary action to be applied.
- (g) After making a decision under section 150AG of the LGA, the Council must make the full investigation report, publicly available within 10 business days after the decision is made, with redactions of the name of the complainant and any witnesses but including the name of a Councillor or the Chief Executive Officer if they were complainants, or any Councillor who declared a COI in the matter.

6.12.4 If the Council has lost quorum due to the number of conflicted Councillors or another reason, the Council must do one of the following:

- (a) Delegate deciding the matter under section 257 of the LGA to the Mayor or a standing committee, whichever is the most appropriate in the circumstances or
- (b) Decide, by resolution, to defer the matter to a later meeting when a quorum may be available, including when a quorum may be available because the conflicted Councillors have applied to the Minister for permission to participate in the decision.

6.12.5 If a decision is reached that the subject Councillor has engaged in a conduct breach, then the Councillors must decide what penalty or penalties from the orders detailed in 6.12.6, if any, to impose on the Councillor. In deciding what penalty to impose the Council may consider any previous inappropriate conduct of the Councillor and any allegation made in the investigation that was admitted, or not challenged, and that the Council is reasonably satisfied is true.

6.12.6 The Council may order that no action be taken against the Councillor or make one or more of the following:

- (a) An order that the Councillor make a public apology, in the way decided by the Council,
- (b) An order reprimanding the Councillor for the conduct breach
- (c) An order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense
- (d) An order that the Councillor be excluded from a stated Council meeting
- (e) An order that the Councillor is removed, or must resign, from a position representing

the Council, other than the office of Councillor, (for example that the Councillor is ordered to resign from an appointment representing the Council on a state board or committee)

- (f) An order that if the Councillor engages in the same type of conduct again, it will be treated as misconduct
- (g) An order that the Councillor reimburse the Council for all or some of the costs arising from the Councillor's conduct breach.
- (h) A Council may not make an order in relation to a person who has vacated their office as a Councillor.

6.12.7 The subject Councillor, and where relevant, the complainant Councillor, must be invited back into the place where the meeting is being held once a decision has been made, and the chairperson must advise them of the decision made by the Council and if relevant any orders made by resolution.

6.12.8 The minutes of the meeting must reflect the decision and any orders made. A notice must be given to the Independent Assessor as soon as practicable about the decision and the reasons for the decision and if an order is made under section 150AH the details of the order.

6.13. Prescribed Conflicts of Interest

Councillors are ultimately responsible for informing of any prescribed conflict of interest on matters to be discussed at a Council meeting, standing or advisory committee meeting (other than ordinary business matters prescribed in s.150EF of the LGA).

When dealing with a prescribed conflict of interest, Councillors must abide by the following procedures:

- (a) A Councillor who has notified the Chief Executive Officer in writing of a prescribed conflict of interest in a matter to be discussed in a Council meeting must also give notice during the meeting.
- (b) A Councillor who first becomes aware of a prescribed conflict of interest in a matter during a Council meeting must immediately inform the meeting of the conflict of interest.
- (c) When notifying the meeting of a prescribed conflict of interest, the following particulars must, at a minimum, be provided:
 - if it arises because of a gift, loan or contract, the value of the gift, loan or contract
 - if it arises because of an application for which a submission has been made, the matters the subject of the application and submission
 - the name of any entity, other than the Councillor, that has an interest in the matter
 - the nature of the Councillor's relationship with that entity
 - details of the Councillor's and any other entity's interest in the matter.
- (d) The Councillor must then leave the place of the meeting, including any area set aside for the public, and stay away while the matter is being discussed and voted on, unless the subject Councillor has written notice from the Minister to participate in the matter.
- (e) Once the Councillor has left the area where the meeting is being conducted, the Council

can continue discussing and deciding on the matter at hand.

6.14. Declarable Conflicts of Interest

Councillors are ultimately responsible for informing of any declarable conflict of interest on matters to be discussed at Council meetings, standing or advisory committee meetings that might lead to a decision that is contrary to the public interest (other than the interests prescribed under section 150EO of the LGA, and ordinary business matters prescribed in s.150 EF of the LGA).

A Councillor may raise their personal interests in a matter at the meeting to canvas the view of the other Councillors prior to deciding to declare a conflict of interest. If the other Councillors suspect the personal interest might be a conflict of interest, the Councillor may disclose their suspicion and the processes under section 150EW of the LGA applies. When dealing with a declarable conflict of interest, Councillors must abide by the following procedures:

- 6.14.1 A Councillor who has notified the Chief Executive Officer in writing of a declarable conflict of interest in a matter to be discussed at a Council meeting must also give notice during the meeting.
- 6.14.2 A Councillor who first becomes aware of a declarable conflict of interest in a matter during a Council meeting must inform the meeting of the conflict of interest.
- 6.14.3 When notifying the meeting of a declarable conflict of interest, Councillors should provide sufficient detail to allow the other Councillors to make an informed decision about how best to manage the declarable conflict of interest in the public interest. The following minimum details must be provided:
 - (a) the nature of the declarable conflict of interest
 - (b) if it arises because of the Councillor's relationship with a related party:
 - the name of the related party
 - the nature of the relationship of the related party to the Councillor
 - the nature of the related party's interest in the matter
 - (c) if it arises because of a gift or loan from another person to the Councillor or a related party:
 - the name of the other person
 - the nature of the relationship of the other person to the Councillor or related party
 - the nature of the other person's interest in the matter
 - the value of the gift or loan and the date the gift or loan was made.
- 6.14.4 After a Councillor has declared a conflict of interest, the Councillor should consider leaving the meeting while the matter is discussed unless they have reasons why their participation would improve making the decision in the public interest.
- 6.14.5 If the Councillor chooses not to leave the meeting, the Councillor may advise the other Councillors of their reasons for seeking permission to participate in making the decision.
- 6.14.6 The other Councillors at the meeting must then decide, by resolution, whether the

Councillor can participate in the decision making in relation to the matter, including voting on the matter, or whether they should not participate in the decision and leave the place of the meeting while the matter is decided by the non-conflicted Councillors.

The non-conflicted Councillors may impose conditions on the Councillor under a decision to either participate or leave the meeting e.g., may stay for the debate but must leave for the vote. The Councillor must comply with any decision or condition imposed by the eligible Councillors.

- 6.14.7 In deciding on whether a Councillor may participate in a decision about a matter in which the Councillor has a declarable conflict of interest, only Councillors who do not themselves have a prescribed or declarable conflict of interest in the matter are eligible to participate in the decision making. The decision may be made even if the number of those Councillors is less than a majority or less than a quorum for the meeting consistent with section 150ET of the LGA.
- 6.14.8 The Councillor who is the subject of the decision may remain in the meeting while the debate is occurring and can participate by answering questions from the Chairperson to assist the other Councillors in making their decision. The subject Councillor must not vote or otherwise participate in making the decision but may remain in the meeting while the vote on the matter takes place and the decision is declared by the Chairperson, on whether the Councillor may remain in the meeting and participate in deciding the matter in which the Councillor has a declarable conflict of interest.
- 6.14.9 When deciding whether a Councillor may participate in the decision making on a matter in which they have a declarable conflict of interest, the other Councillors should consider the circumstances of the matter including, but not limited to:
- (a) how does the inclusion of the Councillor in the deliberation affect the public trust
 - (b) how close or remote is the Councillor's relationship to the related party
 - (c) if the declarable conflict of interest relates to a gift or other benefit, how long ago was the gift or benefit received
 - (d) will the benefit or detriment the subject Councillor or their related party stands to receive from the decision have major or minor impact on them
 - (e) how does the benefit or detriment the subject Councillor stands to receive compare to others in the community
 - (f) how does this compare with similar matters that Council has decided and have other Councillors with the same or similar interests decided to leave the meeting
 - (g) whether the subject Councillor has unique skills, knowledge or expertise that might help make the best decision in the public interest
- 6.14.10 If the non-conflicted Councillors cannot decide about the declarable conflict of interest of a Councillor, they are taken to have decided that the Councillor must leave and stay away from the meeting while the non-conflicted Councillors discuss and vote on the matter.
- 6.14.11 A decision about a Councillor who has a declarable conflict of interest in a matter applies in relation to the Councillor for participating in the decision, and subsequent decisions, about the same matter unless there is a change to the Councillor's personal interests and/or the nature of the matter being discussed. If the non-conflicted Councillors decide

that the Councillor can act in the public interest on the matter, then the Councillor may participate in the meeting and be involved in processes occurring outside of a Council meeting about the same matter e.g., workshops.

- 6.14.12 In making the decision under 6.14.6 and 6.14.9, it is irrelevant how the subject Councillor intended to vote on the issue or any other issue (if known or suspected).
- 6.14.13 A Councillor does not contravene the above procedures if the Councillor participates in a decision under written approval from the Minister as prescribed in section 150EV of the LGA.

6.15. Reporting a Suspected Conflict of Interest

- 6.15.1 If a Councillor at a meeting reasonably believes or suspects that another Councillor has a personal interest in a matter that may be a prescribed or declarable conflict of interest, and that Councillor is participating in a decision on that matter, the Councillor who believes or suspects this, must immediately inform the Chairperson of the meeting of their belief or suspicion, and the facts and circumstances that led to their belief or suspicion.
- 6.15.2 The Chairperson should ask the relevant Councillor with the suspected personal interest whether they have any prescribed or declarable conflict of interest in the matter. If the Councillor agrees they have a conflict of interest, the Councillor must follow the relevant procedures above.
- 6.15.3 If the Councillor believes they do not have a conflict of interest, they must inform the meeting of that belief and their reasons for that belief.
- 6.15.4 The eligible Councillors must then decide whether the Councillor has a prescribed conflict of interest, a declarable conflict of interest or that the Councillor does not have a prescribed or declarable conflict of interest in the matter. If the meeting decides the Councillor has a conflict of interest, the Councillor must follow the relevant procedures above.
- 6.15.5 If the Councillors cannot reach a majority decision, then they are taken to have determined that the Councillor has a declarable conflict of interest. The Councillor must leave and stay away from the place where the meeting is being held while the eligible Councillors discuss and vote on the matter. This decision will continue to apply in relation to all subsequent decisions about the same matter, where the conflict of interest remains unchanged.

6.16. Recording Prescribed and Declarable Conflicts of Interest

When a Councillor informs a meeting that they or another Councillor have a prescribed or declarable conflict of interest in a matter, the minutes of the meeting must record all of the relevant details of how the conflict of interest was dealt with, being:

- (a) the name of any Councillor and any other Councillor who may have a prescribed or declarable conflict of interest,
- (b) the particulars of the prescribed or declarable conflict of interest provided by the Councillor,

- (c) the actions taken by a Councillor after informing the meeting that they have, or they reasonably suspect another Councillor has a prescribed or declarable conflict of interest,
- (d) any decision then made by the eligible Councillors,
- (e) whether the Councillor with a prescribed or declarable conflict of interest participated in or was present for the decision under ministerial approval,
- (f) the Council's decision on what actions the Councillor with a declarable conflict of interest must take and the reasons for the decision,
- (g) the name of each eligible Councillor who voted on the matter and how each voted.

If the Councillor has a declarable conflict of interest the following additional information must be recorded in the minutes of the meeting when the meeting is informed of a Councillor's personal interest by someone other than the Councillor:

- (a) the name of each Councillor who voted in relation to whether the Councillor has a declarable conflict of interest, and how each of the Councillors voted.

Where a decision has been made under section 6.14.6 above - the minutes must include:

- (b) the decision and reasons for the decision, and
- (c) the name of each eligible Councillor who voted, and how each eligible Councillor voted.

6.17. Records of Meetings

- (a) Minutes of the Ordinary and Special meetings and the reports of proceedings of Standing Committees must include—
 - the names of Councillors or Committee members present at the meeting; and
 - in the case of an Ordinary meeting, the names of Councillors moving and seconding a motion and the outcome of that motion;
 - in the case of an Ordinary meeting, where a decision is unanimously carried;
 - in the case of a Standing Committee the moving and seconding a motion and the outcome of that motion;
 - the names of all persons voting on the question and how they voted; and
 - any disclosure of a material personal or conflict of interest; and
 - reasons for decisions as required under the *Local Government Regulation 2012*.
 - each relevant report for the meeting, other than to the extent the relevant report contains information that is confidential to the local government. (The minutes of a local government meeting need not include a relevant report if the relevant report has been made publicly available as part of the agenda under section 254D of the LGR).
- (b) The minutes of a meeting are a record of the decisions made and are not transcripts of discussions that occur at the meeting.
- (c) At each Ordinary meeting, the minutes of the previous meeting must be considered by the Councillors present and:
 - amended by a resolution of the meeting if required;

- once agreed by a majority to be a true record, confirmed and signed by the Chairperson of the later meeting.
- (d) A copy of the minutes of each meeting:
- must be available for inspection by the public, at a Council’s public office and on its website, within 10 days after the end of the meeting; and
 - when the minutes have been confirmed—must be available for purchase at the Council’s public office.¹³
- (e) The *Local Government Regulation 2012* mandates that standing committees keep minutes of their meetings and report all recommendations to the next Ordinary meeting for determination by Council. Committee recommendations are to reflect the consensus reached by the Standing Committee.
- (f) Minutes can only be amended at the time of confirmation to correct an inaccurate record of the meeting.

7. Legal Parameters

Local Government Act 2009

Local Government Regulation 2012

Local Law No. 1 (Administration) 2011 (S34 and 35)

8. Associated Documents

Leave of Absence Councillor Procedure

Terms of Reference - Advisory Committees

Terms of Reference - Standing Committees Petitions to Council procedure

¹³ S254F LGR 2012