

## HEAD OF POWER

- *Local Government Act 2009*, section 150F
- *Local Government Regulation 2012*, Chapter 8, Part 2

## INTENT

To provide set procedures to ensure the local government principles are reflected in the conduct of Council meetings, standing and advisory committee meetings.

## SCOPE

This policy applies to all Council meetings including standing committee meetings. This policy does not apply to meetings of the Audit and Risk Committee.

It is not intended that this policy will deal with all aspects of meeting conduct but only those required to strengthen public confidence in Council to deal with the conduct of Councillors in meetings.

## DEFINITIONS

**Assessor** means the Independent Assessor appointed under section 150CV of the *Local Government Act 2009* (the Act).

**Conduct** includes:

- (a) failing to act; and
- (b) a conspiracy, or attempt, to engage in conduct.

**Conduct Breach** see section 150K of the Act.

**Employee** means a local government employee as defined pursuant to the *Local Government Act 2009*.

**Meeting** means a meeting of a:

- (a) local government; or
- (b) committee of a local government.

**Misconduct** see section 150L of the Act.

**Regulation** means *Local Government Regulation 2012*.

**Unsuitable meeting conduct** see section 150H of the Act.

## POLICY STATEMENT

### 1. General

- 1.1. These standing orders apply to meetings including standing committee meetings. These standing orders do not apply to meetings of the Audit and Risk Committee.
- 1.2. A provision of these standing orders may be suspended by resolution of any meeting of Council except those sections that are mandatory under the model meeting procedures. A separate resolution is required for any suspension and must specify the application and duration of each suspension.
- 1.3. Where a matter arises at the Council meeting that is not provided for in these standing orders, the matter will be determined by resolution of Council upon a motion which may be put without notice, but otherwise conforming with these standing orders.

## Procedures for meetings of Council

### 2. Procedure for the Chairperson

This section applies to Council meetings, and Council standing committee meetings. Under section 12(4) of the Act the Mayor is the chairperson, leading and managing Council meetings. The Mayor may delegate another Councillor to act 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 Act, the Deputy Mayor acts for the Mayor during the absence or temporary incapacity or when the office of Mayor is vacant.

- 2.1 The Mayor will be the chairperson at a Council meeting at which the Mayor is present.
- 2.2 If the Mayor is unavailable to chair a Council meeting, the meeting will be chaired by the Councillor to whom the Mayor has delegated their responsibility to chair the meeting.
- 2.3 If the Mayor is absent or has a temporary incapacity and is unable to chair a Council meeting, and has not delegated another Councillor to do so, the Deputy Mayor will be the chairperson.
- 2.4 If the office of Mayor becomes vacant the Deputy Mayor acts as Mayor and chairperson of the Council meetings.
- 2.5 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, the Council may by resolution appoint one of the Councillors present at the meeting to act as chairperson for the duration of the meeting.

- 2.6 The Council may appoint the chairperson for a standing committee. This chairperson will preside over meetings of the committee. The Mayor is a member of each standing committee but not necessarily the chairperson.
- 2.7 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.
- 2.8 Before proceeding with the business of the Council meeting, the chairperson at the meeting will undertake the acknowledgement and/or greetings deemed appropriate by the Council.

**Note:** Section 12 of the Act does not prescribe that other Councillors have the responsibility of chairing Council meetings. Other Councillors cannot assume the chairperson role except when they are delegated by the Mayor to perform the extra responsibilities of a chairperson 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 Council meeting because the Mayor has, for example, a conflict of interest in a matter, or will be absent or incapacitated for that meeting. Upon the Mayor's return to the meeting the Mayor or Deputy Mayor (whichever is relevant) can resume their role as chairperson.

### 3. Order of Business

- 3.1 The order of business will be determined by resolution of Council from time to time. The order of business may be altered for a particular meeting where the Councillors at that meeting pass a procedural motion to that effect. A motion to alter the order of business may be moved without notice.
- 3.2 Unless otherwise altered, the order of business will be as follows:
- attendances;
  - apologies and granting of leaves of absence;
  - confirmation of previous minutes;
  - business arising out of previous meetings;
  - conflicts of interest;
  - Mayoral minute;
  - notices of motion;
  - conduct breach investigation reports, financial statements reports; and
  - employee reports.

**Note:** The minutes of a previous meeting, whether an ordinary or a special meeting, not previously confirmed will be taken into consideration, at every ordinary meeting of Council, in order that the minutes may be confirmed. No discussion will be permitted about these minutes except with respect to their accuracy as a record of the proceedings. Amendments to the minutes may be made prior to confirming the minutes. This must be done by moving a motion to amend the minutes that must be

*voted on and carried. Once the resolution is passed the minutes can be amended. All Councillors present at the meeting can vote to confirm the minutes including those who were absent at the previous meeting and those who had a conflict of interest at the previous meeting. Once the minutes are confirmed by resolution of the meeting they cannot be changed. If Council needs to make a correction to the confirmed minutes, that can be done by passing a rescinding motion or a new motion that states what the correction is, but the original minutes remain as they are recorded.*

## 4. Agendas

### 4.1 The agenda may contain:

- notice of meeting;
- amendments correcting the minutes of the previous meeting;
- adoption of the minutes of the previous meeting;
- business arising out of previous meetings;
- business which the Mayor wishes to have considered at that meeting without notice;
- matters of which notice has been given;
- committees' reports referred to the meeting by the Chief Executive Officer (CEO);
- officers' reports referred to the meeting by the CEO;
- Councillor conduct breach investigation reports provided by the investigator;
- deputations and delegations from the community that are approved to attend;
- any other business Council determines by resolution be included in the agenda.

### 4.2 Business not on the agenda, or not fairly arising from the agenda, will not be considered at any Council meeting unless permission for that purpose is given by Council at the meeting. Business must be in accordance with the adopted terms of reference for each committee.

### 4.3 The notice of the meeting and the agenda must be given to each Councillor at least 2 days before the meeting, unless it is impracticable to give the notice before that time.

### 4.4 The agenda for the Council meeting must be made publicly available by 5pm on the business day after the notice of meeting is given to the Councillors. Any related reports, including any summary investigation report for a conduct breach matter, for the Council meeting must also be included and available to the public when the agenda for the meeting is made publicly available, excluding confidential reports. If the related report is made available to Councillors or committee members during the period starting immediately after notice of the meeting is given and ending immediately before the meeting is held, then these reports must be made available to the public as soon as practicable after it is made available to the Councillors or committee members.

### 4.5 Matters on the agenda that may require the meeting to be in a closed session consistent with the provisions under section 254J the Regulation, can be identified on the agenda as 'may be closed by resolution of the meeting for the matter to be debated'.

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- 4.6 A Councillor wishing to put forward a Notice of Motion is required to notify the Chief Executive Officer 3 clear business days prior to the agenda being made available to the Councillors. The Notice of Motion should include what the motion relates to and any applicable information or accompanying report relating to the motion.

## 5. Quorum

- 5.1 A quorum at a Council meeting is a majority of its Councillors. If the number of Councillors is even, then one half of the number is a quorum.
- 5.2 If a quorum is not present within 15 minutes after the time set for the meeting to begin, it may be adjourned to a later hour or a later day within 14 days after the day of the adjournment. The meeting may be adjourned by a majority of Councillors present, or if only one Councillor is present, then that Councillor, or if no Councillors are present then the CEO.

## 6. Minutes

- 6.1 Unconfirmed minutes of Council meetings are to be published by 5pm on the tenth day after the meeting on Council's website.
- 6.2 Confirmed minutes will be published as soon as practicable after the meeting at which they are confirmed.
- 6.3 A Councillor can confirm the meeting minutes despite having a conflict of interest in a matter discussed or decided in the meeting and regardless of whether they were present at the meeting.
- 6.4 Confidential information in reports or papers are exempt from publication on Council's website.

## 7. Petitions

- 7.1 Any petition presented to a meeting of Council will:
- be in legible writing or typewritten and contain a minimum of 10 signatures;
  - include the name and contact details of the principal petitioner (i.e., the key contact);
  - include the postcode of all petitioners; and
  - have the details of the specific request/matter appear on each page of the petition.
- 7.2 The Chief Executive Officer will provide a report and recommendation to Council for any petition received by Council that complies with clause 7.1.
- 7.3 Where a Councillor presents a petition to a meeting of Council, no debate in relation to it will be allowed, and the only motion which may be moved is:
- that the petition be received; or
  - received and referred to a committee or employee for consideration and a

- report to Council; or
- not be received because it is deemed invalid.

7.4 Council will respond to the principal petitioner in relation to all petitions deemed valid.

## 8. Deputations

8.1 A deputation wishing to attend and address a meeting of Council shall apply in writing to the CEO not less than seven business days before the meeting.

8.2 The CEO, on receiving an application for a deputation, shall notify the Chairperson who will determine whether the deputation may be heard. The CEO will inform the deputation of the determination in writing. Where it has been determined the deputation will be heard, a convenient time will be arranged for that purpose, and an appropriate time period allowed (e.g. 15 minutes).

8.3 For deputations comprising three or more persons, only three persons shall be at liberty to address the Council meeting unless the Councillors at the meeting determine otherwise by resolution. A deputation shall be given adequate opportunity to explain the purpose of the deputation.

8.4 If a member of the deputation other than the appointed speakers interjects or attempts to address the Council meeting, the Chairperson may terminate the deputation.

8.5 The Chairperson may terminate an address by a person in a deputation at any time where:

- the Chairperson is satisfied that the purpose of the deputation has been sufficiently explained to the Councillors at the meeting;
- the time period allowed for a deputation has expired; or
- the person uses insulting or offensive language or is derogatory towards Councillors or others.

8.6 The CEO is responsible for the deputation, including that the appointed speaker/s are notified in writing of developments or future actions as appropriate.

## 9. Public participation at meetings

9.1 A member of the public may take part in the proceeding of a meeting only when invited to do so by the Chairperson.

9.2 In each Council meeting, time may be required to permit members of the public to address Council on matters of public interest related to Council. An appropriate time period will be allowed (e.g. 15 minutes) and no more than three speakers shall be permitted to speak at one meeting. The right of any individual to address Council during this period shall be at the absolute discretion of the Chairperson.

9.3 If any address or comment is irrelevant, offensive, or unduly long, the Chairperson



may require the person to cease making the submission or comment.

- 9.4 For any matter arising from such an address, Council may take the following actions:
- refer the matter to a committee;
  - deal with the matter immediately;
  - place the matter on notice for discussion at a future meeting; or
  - note the matter and take no further action.
- 9.5 Any person addressing Council shall stand, act, and speak with decorum and frame any remarks in respectful and courteous language.
- 9.6 Any person who is considered by Council or the Chairperson to be inappropriately presenting may be directed by the Chairperson to immediately withdraw from the meeting. Failure to comply with such a request may be considered an act of disorder.

## 10. Prescribed conflict of interest

Councillors are ultimately responsible for informing of any prescribed conflict of interest on matters to be discussed at a meeting (other than ordinary business matters as prescribed under section 150EF of the Act. When dealing with a prescribed conflict of interest, Councillors must abide by the following procedures:

- 10.1 A Councillor who has notified the CEO in writing, including all the particulars, of a prescribed conflict of interest in a matter to be discussed in a meeting must also give notice during the meeting at the time when the matter is to be dealt with.
- 10.2 A Councillor who first becomes aware of a prescribed conflict of interest in a matter during a meeting must immediately inform the meeting of the conflict of interest and the particulars.
- 10.3 When notifying the meeting of a prescribed conflict of interest, the following particulars must be provided:
- for a gift, loan or contract – the value of the gift, loan or contract.
  - for an application for which a submission has been made – the matters the subject of the application and submission:
    - the name of the entity, other than the Councillor, that has an interest in the matter;
    - the nature of the Councillor's relationship to the other entity;
    - details of the Councillor's, and any other entity's, interest in the matter.
- 10.4 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 of approval from the Minister for Local Government (the Minister) to participate in deciding the matter in a meeting including participating in the discussion and the vote.

**Note:** Ministerial approval may be obtained when a quorum is lost due to the number of Councillors with a prescribed conflict of interest in the matter, and the

*matter cannot be delegated. The Councillor with the conflict of interest must apply to the Minister for approval to participate. The Minister may give the approval subject to the conditions stated in the notice of approval.*

- 10.5 Once the Councillor has either left the area where the meeting is being conducted or remains in the meeting under ministerial approval, Council can continue discussing and deciding on the matter at hand. However, if the prescribed conflict of interest was reported to the meeting by a Councillor other than the subject Councillor, then the Councillor must disclose their belief or suspicion to the Chairperson and the processes, duty to report another Councillor's conflict of interest under section 150EW of the Act, will apply. If more than one Councillor is reported by another Councillor to have a suspected prescribed conflict of interest in a matter, the meeting must deal with each Councillor individually. If the Councillor with the suspected prescribed conflict of interest considers there is no conflict of interest, then the eligible Councillors (those who do not have a conflict of interest in the matter) must make a decision about whether or not the subject Councillor has a prescribed conflict of interest under section 150EX(2) of the Act applies.

## 11. Declarable conflict of interest

Councillors are ultimately responsible for informing of any declarable conflict of interest on matters to be discussed at Council or committee meetings that might lead to a decision that is contrary to the public interest (other than the interests that are not declarable conflicts of interest prescribed under section 150EO of the Act and ordinary business matters prescribed under section 150EF of the Act.

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 or Councillors may disclose their belief or suspicion to the Chairperson and the processes, duty to report another Councillor's conflict of interest under section 150EW of the Act, will apply. If more than one Councillor is reported by another Councillor to have a suspected declarable conflict of interest in a matter, the meeting must deal with each Councillor individually. The eligible Councillors must then make a decision under section 150EX(2) of the Act.

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

- 11.1 A Councillor who has notified the CEO of a declarable conflict of interest in a matter to be discussed at a meeting must also give notice during the meeting at the time when the matter is to be dealt with.
- 11.2 A Councillor who first becomes aware of a declarable conflict of interest in a matter during a meeting must stop participating in the decision on the matter and must inform the meeting of the conflict of interest including the particulars.
- 11.3 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.

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The following details must be provided:

- the nature of the declarable conflict of interest.
- if it arises because of the Councillor's relationship with a related party:
  - the name of the related party to the Councillor; and
  - the nature of the relationship of the related party to the Councillor; and
  - the nature of the related party's interest in the matter.
- 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; and
  - the nature of the relationship of the other person to the Councillor or related party; and
  - the nature of the other person's interest in the matter; and
  - the value of the gift or loan and the date the gift or loan was made.

11.4 After a Councillor has declared a conflict of interest, the Councillor should consider leaving the meeting while the matter is discussed unless they have ministerial approval to participate, or they have reasons why their participation would improve making the decision in the public interest.

11.5 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 as prescribed in section 150ES of the Act. In deciding on a Councillor's declarable conflict of interest in a matter, only eligible Councillors (those who do not have a prescribed or declarable conflict of interest in the matter) can participate in the decision making. The decision may be made even if the number of eligible Councillors is less than a majority, or does not form a quorum for the meeting, or is a single eligible Councillor, consistent with section 150ET of the Act. If there is a single eligible Councillor deciding, then a seconder for the resolution is not required.

**Note:** *The ability to make a resolution without a seconder applies when making a resolution under section 150ES of the Act.*

11.6 The eligible Councillor/s 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 eligible Councillors. The eligible Councillors may impose conditions on the Councillor to either participate or leave the meeting e.g. they may stay for the debate but must leave for the vote. The Councillor must comply with any decision and any condition imposed by the eligible Councillors. The Councillor must not participate in the decision unless authorised in compliance with section 150ES of the Act or under an approval by the Minister for Local Government under section 150EV.

11.7 The Councillor who is the subject of the decision may remain in the meeting while the debate is occurring about their ability to participate and can answer questions from the Chairperson to assist the eligible 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.

- 11.8 When deciding whether a Councillor may participate in the decision making on a matter in which they have a declarable conflict of interest, the eligible Councillors should consider the particular circumstances of the matter including, but not limited to:
- how does the inclusion of the Councillor in the deliberation affect the public trust;
  - how close or remote is the Councillor's relationship to the related party;
  - if the declarable conflict of interest relates to a gift or other benefit, how long ago was the gift or benefit received;
  - 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;
  - how the benefit or detriment the subject Councillor stands to receive compare to others in the community;
  - how this compares with similar matters that Council has decided and have other Councillors with the same or similar interests decided to leave the meeting;
  - whether the subject Councillor has unique skills, knowledge or expertise that might help make the best decision in the public interest.
- 11.9 If the eligible Councillors cannot decide about the Councillor's participation in the meeting with a declarable conflict of interest, they are taken to have decided that the Councillor must leave and stay away from the meeting while the eligible Councillors discuss and vote on the matter as prescribed in section 150ET(3) of the Act.
- 11.10 A decision about a Councillor who has a declarable conflict of interest in a matter will apply to participating in the decision and all subsequent decisions about the same matter as prescribed in section 150ET(4) of the Act, unless there is a change to the Councillor's personal interests and/or the nature of the matter being discussed. If the eligible Councillors decide by resolution 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 meeting about the same matter e.g. workshops.
- 11.11 In making the decision, it is irrelevant how the subject Councillor intended to vote on the issue or any other issue (if known or suspected).
- 11.12 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 Act.

## 12. Reporting a suspected conflict of interest

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 a declarable conflict of interest, and that Councillor is participating in a decision on that matter, the informing Councillor who believes that a conflict of interest exists 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. If more than one Councillor is reported by another Councillor to have a suspected personal interest in a matter, the meeting must deal with each Councillor individually.

- 12.1 The Chairperson then should ask the 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 meeting procedures above for prescribed and declarable conflicts of interest.
- 12.2 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.
- 12.3 If the eligible Councillors at the meeting cannot make a decision about, whether a Councillor has a declarable conflict of interest under section 150ER of the Act, or whether the Councillor may or may not participate in the decision despite the subject Councillor's declarable conflict of interest under section 150ES of the Act, then they are taken to have determined that the Councillor must leave the meeting and stay away while the matter is being decided under section 150ET(3) of the Act. A decision under these provisions about a Councillor participating in the meeting applies to the matter 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 eligible Councillors decide by resolution that the subject 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 meeting about the same matter e.g. workshops.
- 12.4 If the eligible Councillors at the meeting cannot make a decision about, whether a Councillor has a declarable conflict of interest under 150ER of the Act, or whether the Councillor may or may not participate in the decision despite the subject Councillor's declarable conflict of interest under 150ES of the Act, then they are taken to have determined that the Councillor must leave the meeting and stay away while the matter is being decided under 150ET(3) of the Act. A decision under these provisions about a Councillor participating in the meeting applies to the matter 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 eligible Councillors decide that the subject 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.
- 12.5 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 the relevant details

**Note:** *The minutes must include details of how the conflict of interest was dealt with, being (section 150FA of the Act):*

- *the name of any Councillor and any other Councillor who may have a prescribed or declarable conflict of interest;*

- *the particulars of the prescribed or declarable conflict of interest provided by the Councillor;*
- *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;*
- *any decision then made by the eligible Councillors;*
- *whether the Councillor with a prescribed or declarable conflict of interest participated in or was present for the decision under ministerial approval;*
- *Council's decision on what actions the Councillor with a declarable conflict of interest must take and the reasons for the decision.*

- 12.6 The minutes of the meeting must record the name of each eligible Councillor who voted in relation to whether the Councillor has a declarable conflict of interest, and how each of the Councillors voted.

**Note:** *The eligible Councillors include a Councillor who has either been granted approval by the Minister or their fellow Councillors to participate and vote on a matter (e.g. the eligible Councillors in this subsection means all Councillors who were entitled to vote on the matter).*

*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.*

- 12.7 Where a decision has been made under section 150ES of the Act, the minutes must include the:
- decision and reasons for the decision;
  - name of each eligible Councillor who voted, and how each eligible Councillor voted.

## 13. Loss of quorum

- 13.1 In the event where one or more Councillors leave a 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, Council must resolve to:

- delegate the consideration and decision on the matter, as described in section 257 of the Act, unless the matter cannot be delegated under subsection three of both sections, because an Act says it must be decided by resolution of Council;
- decide by resolution to defer the matter to a later meeting; or
- decide by resolution not to decide the matter and take no further action in relation to the matter unless the Act or another Act provides that Council must decide the matter.

- 13.2 Council may by resolution delegate a power under section 257 of the Act to:

- the Mayor or CEO;
- a standing committee, or joint committee of Council;
- the Chairperson of a standing committee or joint standing committee of Council;

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- another local government for a joint government activity.

- 13.3 All Councillors including the conflicted Councillors, may participate in deciding to delegate or defer a matter.
- 13.4 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.
- 13.5 Council may only delegate a power to make a decision about a Councillor's conduct under section 150AG of the Act pursuant to section 257(2) of the Act, to:
- the Mayor; or
  - a standing committee.
- 13.6 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.

## 14. Recording prescribed and declarable conflicts of interest

- 14.1 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 (see section 150FA of the Act):
- the name of any Councillor and any other Councillor who may have a prescribed or declarable conflict of interest;
  - the particulars of the prescribed or declarable conflict of interest provided by the Councillor;
  - 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;
  - any decision then made by the eligible Councillors;
  - whether the Councillor with a prescribed or declarable conflict of interest participated in or was present for the decision under ministerial approval;
  - the Council's decision on what actions the Councillor with a declarable conflict of interest must take and the reasons for the decision;
  - the name of each Councillor who voted on the matter and how each voted.
- 14.2 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:
- 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.
- 14.3 Where a decision has been made under section 11 above – the minutes must include:
- the decision and reasons for the decision; and

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- the name of each eligible Councillor who voted and how each eligible Councillor voted.

## **Motions**

### **15. Motion to be moved**

- 15.1 A Councillor is required to 'move' a motion and then another Councillor is required to 'second' the motion.
- 15.2 When a motion has been moved and seconded, it will become subject to the control of the Council and cannot be withdrawn without the consent of the Council meeting.
- 15.3 Other Councillors can propose amendments to the motion, which must be voted on before voting on the final motion:
- motion brought before a meeting of the Council in accordance with the Act or these standing orders 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;
  - 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.
- 15.4 The Chairperson may call the notices of motion in the order in which they appear on the agenda. Where no objection is raised to a motion being taken as a formal motion, and the motion is then seconded, the Chairperson may put the motion to the vote without discussion and the vote can occur.
- 15.5 No more than one motion or one proposed amendment to a motion may be put before a meeting at any one time.

### **16. Absence of mover of motion**

- 16.1 Where 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.

### **17. Motion to be seconded**

- 17.1 A motion or an amendment to a motion will not be debated at a meeting of Council unless or until the motion or the amendment is seconded.
- 17.2 Procedural motions are an exception to this rule and do not need to be seconded.



## 18. Amendment to motion

- 18.1 An amendment to a motion should maintain or further clarify the intent of the original motion and not contradict the motion.
- 18.2 Where an amendment to a motion is before a meeting of Council, no other amendment to the motion will be considered until after the first amendment has been voted on.
- 18.3 Where a motion is amended, the original motion cannot be re-introduced as a subsequent amendment to the first amended motion.

## 19. Speaking to motions and amendments

- 19.1 The mover of a motion or amendment will read it and state that it is moved but will not speak to it until it is seconded.
- 19.2 The Chairperson will manage the debate by allowing the Councillor who proposed the motion the option of speaking first on the motion. The Chairperson will then call on any other Councillors who wish to speak against the motion and then alternatively for and against the motion as available, until all Councillors who wish to speak have had the opportunity.
- 19.3 A Councillor may make a request to the Chairperson for further information before or after the motion or amendment is seconded.
- 19.4 The mover of a motion or amendment has the right to reply. Each Councillor will speak no more than once to the same motion or same amendment except as a right of reply. Once the right of reply has been delivered the debate ends.
- 19.5 Each speaker will be restricted to not more than 5 minutes unless the Chairperson rules otherwise.
- 19.6 Where two or more Councillors indicate, they may wish to speak at the same time, the Chairperson will determine who is entitled to priority.
- 19.7 In accordance with section 254H of the Regulation, if a decision made at the Council meeting is inconsistent with a recommendation or advice given to Council by an advisor, the minutes of the meeting must include a statement of the reasons for not adopting the recommendation or advice.

**Note:** *If a report contains distinct recommendations, the decision of Council may be taken separately on each recommendation. If a decision by the meeting is contra to a recommendation in a report the minutes must give the reasons for the decision.*

## 20. Method of taking vote

- 20.1 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.

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- 20.2 A Councillor may call for a 'division' to ensure their objection to the motion is recorded in the minutes. If a division is taken, the minutes of the meeting will record the names of Councillors voting in the affirmative and of those voting in the negative. The Chairperson will declare the result of a vote or a division as soon as it has been determined.
- 20.3 Councillors have the right to request that their names and how they voted be recorded in the minutes if they request it when voting other than by division.
- 20.4 Except upon a motion to repeal or amend it, the resolution will not be discussed after the vote has been declared.

## 21. Failed motions

If a vote of Council does not pass, this does not mean the opposite decision was made. For example, if Council votes on the approval of a development application, but it does not receive a majority of votes from Councillors, this does not mean that Council has decided to refuse the application. In that case, to reach a decision, Councillors must make a new motion resolving to refuse the application. If this does not occur, the decision may be reconsidered by Council at a later date.

## 22. Withdrawing a motion

A motion or amendment may be withdrawn by the mover with the consent of 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 Council meeting for its withdrawal.

## 23. Repealing or amending resolutions

- 23.1 A resolution of Council may not be amended or repealed unless notice of motion is given in accordance with the requirements of the legislation (5 business days).
- 23.2 Councillors present at the meeting at which a motion to repeal or amend a resolution is put may defer consideration of that motion. The deferral may not be longer than 3 months.

## 24. Procedural motions

- 24.1 A Councillor at a meeting of the Council may during the debate of a matter at the meeting, move the following motions, as a procedural motion without the need for a seconder:
- that the question/motion be now put before the meeting;
  - that the motion or amendment now before the meeting be adjourned;
  - that the meeting proceeds to the next item of business;
  - that the question lie on the table;
  - a point of order;
  - a motion of dissent against the Chairperson's decision;
  - that this report/document be tabled;

- to suspend the rule requiring that (insert requirement); or
  - that the meeting stands adjourned.
- 24.2 A procedural motion that '**the question be put**' may be moved and, where the procedural motion is carried, the Chairperson will immediately '**put the question to the motion**' or amendment to that motion under consideration. Where the procedural motion is lost, debate on the motion or amendment to that motion will resume.
- 24.3 A 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.
- 24.4 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 Council on the giving of notice in accordance with the standing orders.
- 24.5 A procedural motion that '**the question lie on the table**' will only be moved where the Chairperson or a Councillor requires additional information on the matter before the meeting (or the result of some other action of Council or person is required) before the matter may be concluded at the meeting. Where such a procedural motion is passed, Council will proceed with the next matter on the agenda.
- 24.6 A motion that '**the matter be taken from the table**', may be moved at the meeting at which the procedural motion was carried or at any later meeting.
- 24.7 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.

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

- 24.8 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.
- 24.9 A Councillor may move a motion of dissent in relation to a ruling of the Chairperson

on a point of order. Where such motion is moved, further consideration of any matter will be suspended until after a ruling is made. For example, where a motion of dissent is carried, the matter to which the ruling of the Chairperson was made will proceed as though that ruling had not been made. Where the opposite ruling is made, that the matter was discharged as out of order, it will be restored to the agenda and be dealt with in the normal course of business.

- 24.10 The motion that '**a report/document be tabled**' may be used by a Councillor to introduce a report or other document to the meeting only if the report or other document is not otherwise protected under confidentiality or information privacy laws. On tabling the document, it ceases to be a confidential document and is available for public scrutiny.
- 24.11 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.
- 24.12 A procedural motion that '**the meeting stands adjourned**', may be moved by a Councillor at the conclusion of debate on any matter on the agenda 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.

## 25. Questions

- 25.1 At a meeting, a Councillor may ask a question for reply by another Councillor or an officer regarding any matter under consideration at the meeting.
- 25.2 Questions will be asked categorically and without argument and no discussion will be permitted at the Council meeting in relation to a reply or a refusal to reply to the question.
- 25.3 A Councillor or officer to whom a question is asked without notice may request that the question be taken on notice for the next meeting.
- 25.4 A Councillor who asks a question at a meeting, whether or not upon notice, will be deemed not to have spoken to the debate of the motion to which the question relates.
- 25.5 The Chairperson may disallow a question which is considered inconsistent with an acceptable request or good order, provided that a Councillor may move a motion that the Chairperson's ruling be disagreed with, and if carried the Chairperson will allow the question.

## Meeting conduct

### **26. Process for dealing with Unsuitable Meeting Conduct**

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 meeting conduct by a Councillor in a meeting, the following procedures must be followed by the chairperson of the Council meeting:

- 26.1 The Chairperson must reasonably believe that unsuitable meeting conduct has been engaged in by a Councillor during a meeting. The Chairperson may consider the severity of the conduct and whether the Councillor has been issued with any previous warnings for unsuitable meeting conduct. If the Chairperson decides the conduct is of a serious nature or another warning is unwarranted, the Chairperson can make an order in relation to the conduct under section 26.7 below.
- 26.2 If the Chairperson decides unsuitable meeting conduct has occurred, but is of a less serious nature, the Chairperson may request the Councillor take remedial actions such as:
  - ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct;
  - apologising for their conduct; and/or
  - withdrawing their comments.
- 26.3 If the Councillor complies with the Chairperson's request for remedial action, no further action is required.
- 26.4 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 of unsuitable meeting conduct being issued.
- 26.5 If the Councillor complies with the Chairperson's warning and request for remedial action, no further action is required.
- 26.6 If the Councillor continues to fail to comply with the Chairperson's request for remedial action or the Chairperson decides a warning was not appropriate under 26.2, the Chairperson may make one or more of the orders below:
  - an order reprimanding the Councillor for the conduct; and/or
  - 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.
- 26.7 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.
- 26.8 Following the completion of the meeting, the Chairperson must ensure the minutes record the information about unsuitable meeting conduct (see note below).

**Note:** Details of any order issued must be 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 to be dealt with at the next meeting as a suspected conduct breach. Council is not required to notify the independent assessor (IA) about the conduct; and may deal with the conduct under section 150AG as if an investigation had been conducted. Council's CEO is advised to ensure details of any order made is updated in Council's Councillor conduct register.

26.9 Any Councillor aggrieved with an order issued by the Chairperson can move a motion of dissent for parts 26.2, 26.3, 26.7 and 26.8 above.

## **27. Process for dealing with Unsuitable Meeting Conduct by a Chairperson**

- 27.1 If a Councillor at the meeting reasonably believes that the conduct of the Chairperson during the meeting is unsuitable meeting conduct, the Councillor may raise the matter in the meeting by point of order.
- 27.2 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 Chairperson has engaged in unsuitable meeting conduct (a seconder for the motion is required). The Councillors present, excluding the Chairperson, must decide by resolution if the conduct is unsuitable meeting conduct.
- 27.3 The Chairperson has a declarable conflict of interest in the matter and must declare the conflict of interest and 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 above for declarable conflict of interest.
- 27.4 For the debate and vote on the motion, a Councillor other than the Councillor that moved the motion, is to act as the Chairperson.
- 27.5 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 acting Chairperson from the eligible Councillors.
- 27.6 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).
- 27.7 If it is decided that the Chairperson has engaged in unsuitable meeting conduct, the Councillors can decide to make an order reprimanding the Chairperson for the conduct.
- 27.8 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.

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27.9 The Chairperson then resumes the role of Chairperson, and the meeting continues.

**Note:** Details of any reprimand order must be recorded in the minutes of the meeting. Council's CEO is advised to ensure details of any order made is updated in Council's Councillor conduct register.

*For conduct of a Chairperson, at meetings that is part of a course of conduct leading to orders for unsuitable meeting conduct being made against the Chairperson, on three occasions within a 12-month period, 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 Act and is a conduct breach under section 150K of the Act), Council is not required to notify the Independent Assessor (the Assessor) about the conduct, and may deal with the conduct under section 150AG of the Act as if an investigation had been conducted. It may be dealt with at the next meeting.*

## 28. 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 Act, the Assessor must make a preliminary assessment and dismiss a complaint, notice or information if satisfied that particular circumstances apply – see section 150SD of the Act. If the Assessor finds that a matter is a suspected conduct breach it must refer the matter to the Council to be dealt with. The Assessor refers the Councillor's suspected conduct breach to the Council by giving a referral notice.

**Note:** A conduct breach is conduct that:

- contravenes a behavioural standard of the Code of Conduct for Councillors, or a policy, procedure, or resolution of 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
- an instance of a suspected conduct breach that may arise from circumstances of three instances of unsuitable meeting conduct orders within a 12-month period.

28.1 In relation to matters referred by the Assessor to Council, Council may decide not to start or discontinue an investigation if:

- the complainant withdraws the complaint;
- the complainant consents to the investigation not starting or discontinuing;
- the complainant does not provide extra information when requested;
- there is insufficient information to investigate the complaint;
- 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 Council's Councillor Complaints Investigation Policy. An investigation report must be prepared to assist the Councillors in making a decision on the outcome under section 150AG of the Act. 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 Act on or before the day and time prescribed by Regulation.*

28.2 Council must decide in a meeting, whether the Councillor has engaged in a conduct breach, unless the decision has been delegated to the Mayor under section 257(2)(a) of the Act, or to a standing committee section 257(2)(b) of the Act. Under the Act, decisions about a conduct breach can only be delegated to the Mayor or a standing committee.

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

- Council must act in a manner 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 Council. However, where the matter requires debate Council may close all or part of a meeting to the public, if considered necessary, to discuss an investigation report under section 254J of the Regulation.
- no resolution for a decision can be made in the closed session including a decision about a conflict of interest matter. All matters must be decided in an open session of the meeting or at a later meeting.
- where Council makes a decision about a conduct breach matter at a 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 section 254H of the Regulation.
- the subject Councillor has a declarable conflict of interest in the matter and must declare the conflict of interest. The eligible Councillors at the meeting can decide by resolution that the subject Councillor may remain in the meeting (unless the eligible Councillors decide otherwise) during the debate about the investigation report and may answer questions put to the subject Councillor through the Chairperson in relation to the evidence or written submission about the conduct breach provided by the Councillor to Council.
- 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.
- 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. 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 eligible Councillors (who do not have a conflict of interest in the matter) must decide how to deal with the conflict of interest. The complainant Councillor can be required 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 under section 150AH of the Act.

**Note:** *After making a decision under section 150AG of the Act, 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 CEO of Council if they were the complainant/s, or any Councillor who declared a conflict of interest in the matter.*

- 28.4 If Council has lost quorum due to the number of conflicted Councillors or another reason, Council must do one of the following:
- delegate deciding the matter under section 257 of the Act to the Mayor or a standing committee, or
  - decide, by resolution, to defer the matter to a later meeting, or
  - decide, by resolution, not to decide the matter and take no further action in relation to the matter unless the Act or another Act provides that Council must decide the matter.

**Note:** *Council cannot decide to take no further action on a decision about a conduct matter because it is required under the Act. In order to reach a decision when a loss of quorum has occurred, the matter can be delegated to the Mayor or a standing committee, or the matter can be deferred to a later meeting when a quorum can be maintained.*

*If the conduct breach referral notice is about the suspected conduct breach by the Mayor, then the matter will need to be delegated to a standing committee for a decision.*

*Council should establish a standing committee under section 264 of the Regulation to deal with decisions about conduct breach matters. The standing committee must be in existence before receiving the referral notice from the Assessor, in circumstances where there is no quorum to decide a matter under sections 150AEA or 150AG of the Act due to conflicts of interest. The standing committee will decide about the Mayor's conduct. While section 12(4)(f) of the Act provides that the Mayor has the extra responsibility of being a member of each standing committee, the Mayor could not be a decision-making member of a standing committee dealing with decisions about the Mayor's conduct because of a conflict of interest. The remainder of the unconflicted members of the committee will decide the matter.*

- 28.5 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 150AH of the Act, if any, to impose on the Councillor. In deciding what penalty to impose, 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 Council is reasonably satisfied is true.

- 28.6 Council may order that no action be taken against the Councillor or make one or more of the following:
- an order that the Councillor make a public apology, in the way decided by Council, for the conduct;
  - an order reprimanding the Councillor for the conduct;
  - an order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense;
  - an order that the Councillor be excluded from a stated meeting;
  - an order that the Councillor is removed, or must resign, from a position representing Council, other than the office of Councillor;
  - an order that if the Councillor engages in the same type of conduct again, it

- will be treated as misconduct;
- an order that the Councillor reimburse Council for all or some of the costs arising from the Councillor's conduct breach.

28.7 Council may not make an order in relation to a person who has vacated their office as a Councillor.

28.8 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 Council and if relevant any orders made by resolution.

**Note:** *The minutes of the meeting must reflect the decision and any orders made. A notice must be given to the 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.*

## 29. General conduct during meetings

29.1 After a meeting of Council has been formally constituted and the business commenced, a Councillor will not enter or leave from the meeting without first notifying the Chairperson.

29.2 Councillors will speak to each other or about each other during the Council meeting by their respective titles ('Mayor' or 'Councillor'), and when speaking of or addressing officers, will call them by their respective official or departmental title and will confine their remarks to the matter under consideration.

29.3 No Councillor who is speaking will be interrupted except upon a point of order being raised either by the Chairperson or by another Councillor.

29.4 When the Chairperson speaks during the process of a debate, the Councillor speaking or offering to speak will immediately cease speaking, and each Councillor present will observe strict silence so that the Chairperson may be heard without interruption.

## 30. Disorder

30.1 The Chairperson may adjourn the meeting of Council, where disorder arises at a meeting other than by a Councillor.

30.2 On resumption of the meeting, the Chairperson will move a motion, to be put without debate, to determine whether the meeting will proceed. Where the motion is lost, the Chairperson shall declare the meeting closed, and any outstanding matters will be deferred to a future meeting.

## Attendance and non-attendance

### 31. Attendance of public and the media at a meeting

31.1 An area shall be made available at the place where any meeting of Council is to take

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place for members of the public and representatives of the media to attend the meeting and as many members of the public as reasonably can be accommodated in that area will be permitted to attend the meeting.

- 31.2 When Council is sitting in closed session, the public and representatives of the media will be excluded from the meeting.

## 32. Closed session

- 32.1 A Council meeting, standing committee meeting and advisory committee meeting 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 pursuant to section 254J(3) of the Regulation:

- appointment, dismissal or discipline of the Chief Executive Officer;
- industrial matters affecting employees;
- Council's budget which does not include the monthly financial statements;
- rating concessions;
- legal advice obtained by Council, including legal proceedings that may be taken by or against Council;
- matters that may directly affect the health and safety of an individual or group of individuals;
- negotiations relating to a commercial matter involving Council for which a public discussion could prejudice the interest of Council;
- negotiations relating to the taking of land by Council under the *Acquisition of Land Act 1967*;
- a matter that Council 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 a conduct breach matter given to Council by the Assessor under the Act chapter 5A, part 3, division 5.

- 32.2 A Council or 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 whether the Councillor has a declarable conflict of interest in the matter.

- 32.3 Further, the meeting must not be closed if a quorum is lost due to the number of conflicted Councillors who leave the meeting. Council must instead:

- delegate consideration and decision on the matter, under section 257 of the Act, unless the matter cannot be delegated;
- decide by resolution to defer the matter to a later meeting when a quorum may be available; or
- decide by resolution not to decide the matter and take no further action in relation to the matter unless the Act or another Act provides that Council must decide the matter.

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



- 32.5 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 (a failure to do so could be a contravention of section 171(3) of the Act).
- 32.6 To take a matter into a closed session Council must abide by the following process:
- 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;
  - no resolution can be made while in a closed meeting (other than a procedural resolution).
- 32.7 If it is known in advance, the agenda should clearly identify that the matter may be considered in closed session, and an explanation of why the councillors at the meeting may consider it necessary to take the issue into closed session must be stated.
- 32.8 Not make a resolution while in a closed meeting (other than a procedural resolution).

### 33. Teleconferencing of meetings

- 33.1 If a Councillor wishes to be absent from a Council meeting place during a meeting, the Councillor must apply to Council 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. Council may allow a Councillor to participate in a meeting by teleconference.

**Note:** *There is no legislative requirement for a resolution by Council to allow a Councillor to participate by audio link or audio-visual link. This means Council may delegate the matter. For example, Council may delegate to the Chairperson of Council or a committee meeting the ability to decide whether a Councillor can attend a meeting by audio link or audio-visual link.*

- 33.2 The 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.

**Note:** *Teleconferencing includes the use of a telephone, video conferencing equipment or other means of instant communication that allows a person to take part in a discussion as it happens.*



## ASSOCIATED DOCUMENTS

- Code of Conduct for Councillors in Queensland
- Councillor Complaints Investigation Policy
- Councillor Conduct Register

## DOCUMENTS CONTROLS

Council will review this policy biennially or in response to changes in law or best practice.

## POLICY OWNER

Chief Legal Officer.