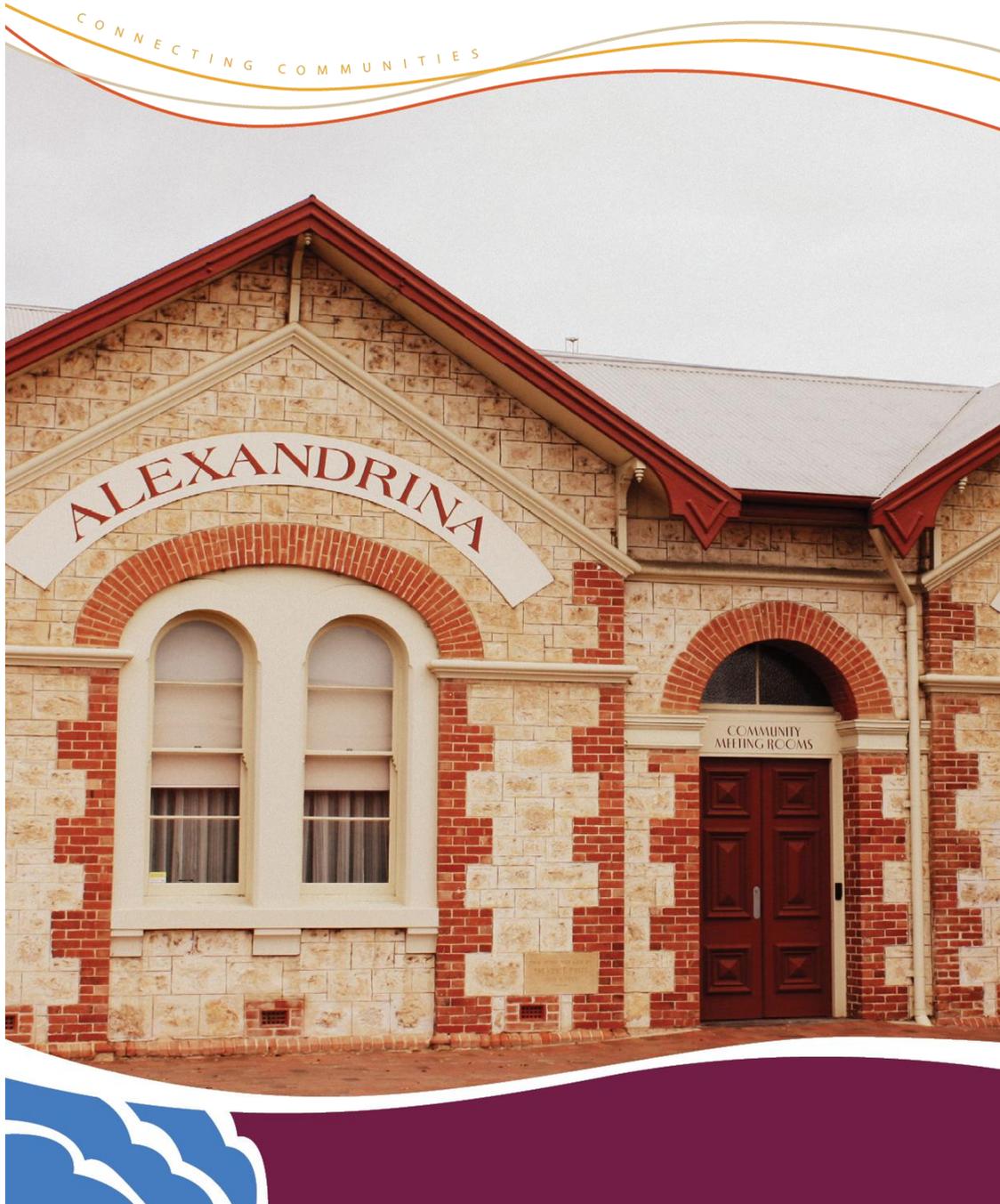




Alexandrina Council
Code of Practice
Council Meeting Procedures





CODE OF PRACTICE – MEETING PROCEDURES

Approved	18 May 2015
Status	Mandatory
Review Frequency	Every 4 years (following LG Election) or as required
Last Reviewed	20 April 2020 (ACM20542)
Next Review Due	April 2022
File Number	18.63.001 / PC202049
Responsible Division	Leadership
Related Documents	Elected Members - Code of Conduct Council Employees – Code of Conduct Internal Review of a Council Decision Policy and Procedure Access to Council and Committee Meetings and Documents – Code of Practice Confidentiality Guidelines
Applicable Legislation	<i>Local Government Act 1999 (SA) Chapter 6, s.81 – 95</i> <i>Local Government (Procedures at Meetings) Regulations 2013</i> <i>Independent Commissioner Against Corruption (ICAC) Act (2012)</i> <i>Electronic Participation in Council Meetings Notice (No 1) 2020</i>

Contents

CHAPTER ONE.....	4
Introduction.....	4
Attendance at Council Meetings	5
Quorum.....	5
Leave of the Meeting	6
Adjourned Meetings.....	6
Part 1 – Preliminary.....	7
1. Citation.....	7
2. Approval.....	7
3. Interpretation.....	7
4. Guiding Principles.....	8
Part 2 - Meetings of councils and committees (to which Part 2 applies).....	8
5. Application of Part 2.....	8
6. Discretionary Procedures.....	9
7. Commencement of Meetings and quorums	9
8. Minutes	10
9. Questions.....	11
10. Petitions	11
11. Deputations.....	12
12. Motions	12
13. Amendments to Motions	14
14. Variations etc.	15
15. Addresses by Members etc.....	15
16. Voting.....	15
17. Divisions	16
18. Form of Participation by Electronic Means.....	16
19. Tabling of Information	16
20. Adjourned Business.....	17
21. Short-term Suspension of Proceedings.....	17
22. Suspension of other Inconsistent Provisions.....	18



23. Chief Executive may submit report recommending revocation or amendment of council decision.....	18
Part 3 - Meetings of other committees (to which Part 2 does not apply)	19
22. Application of Part 3.....	19
23. Notice of meetings for Members	19
24. Public Notice of committee meetings.....	19
25. Minutes	19
Part 4 - Miscellaneous.....	21
26. Quorum for committees	21
27. Voting at committee meetings.....	21
28. Points of Order.....	21
29. Interruption of meetings by members.....	22
30. Interruption of meetings by others.....	22
Part 5 – Supplementary Procedures for council and committees	23
31. Setting of Agenda	23
32. Notice of meeting for members	23
33. Officer’s Presentation of Late Material	24
34. Commencement of Meetings	24
35. Variation of Order of Agenda	24
36. Adjournment of Meetings	24
37. Deputations.....	24
38. Reports of Members	25
39. Questions for clarification purposes	25
40. Motion on Notice	25
41. Questions without Notice	25
42. Committee Reports to the council	25
43. Addresses by Members	26
44. Mobile Telephones.....	26
45. Nomination/Appointment of elected members to internal and external positions	26
Appendix A.....	28
ADDENDUM	29
TO THE CODE OF PRACTICE.....	29
- MEETING PROCEDURES	29
EXTRACT FROM	29
THE LOCAL GOVERNMENT ACT (SA) 1999.....	29
CHAPTER 6 - MEETINGS.....	29

NOTE: For ease of reference this Code of Practice includes the Regulations and are referenced with the same regulation number. Procedures that are varied, or concern matters on which the Act and Regulations are silent, are shown in bold and italics.

Public Health Emergency: Electronic Participation in Council Meetings

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the *South Australian Public Health Act 2011*, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the *Emergency Management Act 2004*, that a Major Emergency is occurring in respect of the outbreak of the Human Disease named COVID-19 within South Australia.

On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the *Local Government Act 1999 (Notice No 1)* varying or suspending the operation of the specified provisions of the Local Government Act 1999 as set out in Schedule 1 to Notice No 1. Notice No 1 commenced operation on 31 March 2020.

For the period Notice No 1 has effect (as provided for in Notice No 1), this Code of Practice is altered as set out below and those alterations have effect notwithstanding any other provision in this Code of Practice to the contrary.

For the avoidance of doubt, save for the alterations to the Code of Practice as set out below, this Code of Practice otherwise applies to all meetings of the Council.

CHAPTER ONE

Introduction

Sections 86(8) and 89(1) of the *Local Government Act 1999* (the Act) provide that meetings of the council or a council committee will be conducted according to procedures:

- prescribed by the Act
- prescribed by regulation
- in relation to council meetings, insofar as the procedure is not prescribed by either the Act or regulations, as determined by the council
- in relation to committee meetings, insofar as the procedure is not prescribed by the Act or regulations, or determined by the council, as determined by the committee itself.

Part 2 of the *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations) specify certain procedures to be followed during the operation of council and certain council committee meetings. These meetings include:

- the meetings of the council
- the meetings of a council committee performing regulatory activities
- the meetings of any other council committee to which the Council has resolved Part 2 will apply.



Regulation 6 provides that the council may develop a Code of Practice, where it chooses, to establish its own procedures in substitution for procedures under the Regulations which are expressed to allow variation.

This Code of Practice incorporates three types of procedures:

- procedures contained in the Regulations
- procedures contained in the Regulations that are expressed to allow variation and are varied by the Council
- procedures on which the council has determined both the Act and Regulations are silent and so has determined those matters itself.

Note: whilst procedures contained in the Act are not incorporated into this Code of Practice, they must be adhered to in all council and council committee meetings.

This Code of Practice will be available to the public to assist their understanding of the procedures associated with the operation of both council and council committee meetings of Alexandrina Council.

In accordance with *Regulation 6*, the council should review the operation of this Code of Practice at least once in every financial year. The council may, at any time, by resolution supported by at least two-thirds of the members of the council entitled to vote, alter, substitute or revoke this Code of Practice - Procedures at Meetings.

In developing this Code of Practice, the council has at all times had regard to the Guiding Principles set out at *Regulation 4* (see page 7).

Attendance at Council Meetings

Members of the Council may participate in a meeting of the Council by electronic means.

A member of the Council participating in a Council meeting by electronic means is taken to be present at the meeting provided that the member:

- (a) can hear all other members present at the meeting;
- (b) can be heard by all other members present at the meeting; and
- (c) can be heard by the person recording the minutes of the meeting.

Quorum

A member of the Council participating in a Council meeting by electronic means is taken to be present at the meeting provided that the member:

- (a) can hear all other members present at the meeting;
- (b) can be heard by all other members present at the meeting; and
- (c) can be heard by the person recording the minutes of the meeting.

A quorum is taken to be present even if 1 or more Council members constituting the quorum is present by electronic means.



Leave of the Meeting

A vote on whether *leave of the meeting* is granted may be conducted by:

- (a) a show of hands; or
- (b) where a member is participating in a meeting by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative.

A division may be called in relation to the vote.

Adjourned Meetings

If a meeting is adjourned to another day, the Chief Executive Officer must:

- (a) give notice of the adjourned meeting to each member of the Council setting out the date, time and place of the meeting;
- (b) give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be published on a website determined by the chief executive officer.

CHAPTER TWO

Part 1 – Preliminary

1. Citation

These procedures may be cited as the “Code of Practice – Procedures at Meetings”.

2. Approval

These procedures were approved by Alexandrina Council on 18 May 2015.

3. Interpretation

(1) In these procedures, unless the contrary intention appears:

“**Act**” means the *Local Government Act 1999*

“**clear days**” — see clause 3(2) and 3(3)

“**deferment**” means to delay a motion until the next meeting as long as there is no question for determination before the meeting. It cannot be used in substitution for a formal motion

“**deputation**” means a person or group of persons who wish to appear personally before the council or a council committee in order to address the council or the committee (as the case may be) on a particular matter

“**disconnection of the electronic**” includes:

- (a) ending a telephone connection such that the discussion and voting at the meeting cannot be heard;
- (b) ending a video conferencing connection such that the discussion and voting at the meeting cannot be seen or heard;
- (c) logging out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard;
- (d) signing out of a virtual meeting room or space such that the discussion and voting at the meeting cannot be seen or heard; or
- (e) disconnecting any other electronic means such that the discussion and voting at the meeting cannot be seen or heard.

“**electronic**” includes a telephone, computer or other electronic device used for communication

“**formal motion**” means a motion:

- (a) that the meeting proceed to the next business
- (b) that the question be put
- (c) that the question lie on the table
- (d) that the question be adjourned, or
- (e) that the meeting be adjourned¹

“**Guiding Principles**” — see *regulation 4*

¹ See regulation 12 for specific provisions about formal motions

“**member**” means a member of the council or council committee (as the case may be)

“**point of order**” means a point raised to draw attention to an alleged breach of the Act or these procedures in relation to the proceedings of a meeting

“**Presiding Member**” means the person who is the Presiding Member at a council or council committee meeting (as the case may be) and includes any person who is presiding at a particular meeting

“**regulations**” means the *Local Government (Procedures at Meetings) Regulations 2013*

“**written notice**” includes a notice given in a manner or form determined by the council.

- (2) In the calculation of 'clear days' in relation to the giving of notice before a meeting:
 - (a) the day on which the notice is given, and the day on which the meeting occurs, will not be taken into account
 - (b) Saturdays, Sundays and public holidays will be taken into account
- (3) For the purposes of the calculation of clear days under *sub-regulation (2)*, if a notice is given after 5 pm on a day, the notice will be taken to have been given on the next day
- (4) For the purposes of these meeting procedures, a vote on whether leave of the meeting is granted may be conducted by a show of hands (nothing in this sub-regulation prevents a division from being called in relation to the vote).

4. Guiding Principles

- (1) The following principles (Guiding Principles) should be applied with respect to the procedures to be observed at a meeting of the council or a council committee:
 - (a) procedures should be fair and contribute to open, transparent and informed decision-making
 - (b) procedures should encourage appropriate community participation in the affairs of the council
 - (c) procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting
 - (d) procedures should be sufficiently certain to give the community and decision makers confidence in the deliberations undertaken at the meeting.

Part 2 - Meetings of councils and committees (to which Part 2 applies)

Division 1 – Preliminary

5. Application of Part 2

- (1) The provisions of this Part apply to:
 - (a) the meetings of the council
 - (b) the meetings of a council committee performing regulatory activities
 - (c) the meetings of any other council committee if the council has, by resolution, determined that this Part should apply to that committee.

6. Discretionary Procedures

- (1) Subject to the requirements of the Act, if a provision of this Part is expressed to be capable of being varied at the discretion of the council pursuant to this procedure, then a council may, by a resolution supported by at least two-thirds of the members of the council entitled to vote, determine that a code of practice prepared or adopted by the council that establishes its own procedures for the relevant matter or matters will apply in substitution for the relevant provision (and such a determination will have effect according to its terms).
- (2) A council should, at least once in every financial year, review the operation of a code of practice under this procedure.
- (3) A council may at any time, by resolution supported by at least two-thirds of the members of the council entitled to vote, alter a code of practice, or substitute or revoke a code of practice.
- (4) A council must, in considering the exercise of a power under this procedure, take into account the Guiding Principles.
- (5) A person is entitled to inspect (without charge) the code of practice of a council under this procedure at the principal office of the Council during ordinary office hours.
- (6) A person is entitled, on payment of a fee fixed by the council, to a copy of the code of practice.
- (7) *Regulation 12(4)* does not apply to a motion under *sub-regulation (3)*.
- (8) This regulation does not limit or derogate from the operation of *regulation 20*².

Division 2 - Prescribed Procedures

7. Commencement of Meetings and quorums

- (1) A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.
- (2) If the number of apologies received by the Chief Executive indicates that a quorum will not be present at a meeting, the Chief Executive may adjourn the meeting to a specified day and time.
- (3) If at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present, the Presiding Member or, in the absence of a Presiding Member, the Chief Executive, will adjourn the meeting to a specified day and time.
- (4) If a meeting is adjourned for want of a quorum, the Chief Executive will record in the minute book the reason for the adjournment, the names of any members present, and the date and time to which the meeting is adjourned.
- (5) If a meeting is adjourned to another day, the Chief Executive must:
 - (a) give notice of the adjourned meeting to each member setting out the date, time and place of the meeting

² Furthermore, if a matter is not dealt with by the Act or this Code of Practice (including under a code of practice under this regulation), then the relevant procedure will be:

- (a) As determined by the council; or
- (b) In the case of a council committee where a determination has not been made by the council – as determined by the committee.

(See *sections 86(8)* and *89(1)* of the Act.)

- (b) give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be placed on display at the principal office of the council.

8. Minutes

- (1) The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.
- (2) No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.
- (3) On the confirmation of the minutes, the Presiding Member will:
 - (a) initial each page of the minutes, which pages are to be consecutively numbered;
 - (b) place their signature and the date of confirmation at the foot of the last page of the minutes;

This may be done in hardcopy or electronically.

- (4) The minutes of the proceedings of a meeting must include:
 - (a) the names of the members present at the meeting including the method of attendance by the person (as listed below)
 - a. physical attendance;
 - b. by an audio-visual link;
 - c. by an audio link;
 - d. by telephone
 - (b) in relation to each member present:
 - (i) the time at which the person entered or left the meeting
 - (ii) unless the person is present for the whole meeting, the point in the proceedings at which the person entered or left the meeting.
 - (c) each motion or amendment, and the names of the mover and seconder
 - (d) any variation, alteration or withdrawal of a motion or amendment
 - (e) whether a motion or amendment is carried or lost
 - (f) any disclosure of interest made by a member
 - (g) an account of any personal explanation given by a member
 - (h) details of the making of an order under *section 90(2)* of the Act (see *90(7)* of that section)
 - (i) a note of the making of an order under *Section 91(7)* of the Act in accordance with the requirements of *Section 91(9)*
 - (j) details of any adjournment of business
 - (k) a record of any request for documents to be tabled at the meeting
 - (l) a record of any documents tabled at the meeting
 - (m) a description of any oral briefing given to the meeting on a matter of council business

- (n) any other matter required to be included in the minutes by or under the Act or any regulation or procedure.

9. Questions

- (1) A member may ask a question on notice by giving the Chief Executive written notice of the question at least 5 clear days before the date of the meeting at which the question is to be asked.
- (2) If notice of a question is given under *sub-regulation (1)*:
 - (a) the Chief Executive must ensure that the question is placed on the agenda for the meeting at which the question is to be asked
 - (b) the question and the reply must be entered in the minutes of the relevant meeting.
- (3) A member may ask a question without notice at a meeting.
- (4) The presiding member may allow the reply to a question without notice to be given at the next meeting.
- (5) A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve that an entry should be made.
- (6) The presiding member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper.

10. Petitions

- (1) A petition to the council must:
 - (a) be legibly written or typed or printed
 - (b) clearly set out the request or submission of the petitioners
 - (c) include the name and address of each person who signed or endorsed the petition
 - (d) be addressed to the council and delivered to the principal office of the council via post or electronic meansas determined by the Chief Executive Officer.
- (2) *If a petition is received under sub-regulation (1), the Chief Executive must ensure that a summary of the petition including a statement as to the nature of the request of submission and the number of signatures, is placed on the agenda for the next ordinary meeting of the council or appropriate committee of the council (as determined by the Chief Executive), and that access to a copy of the full petition will be provided to all Elected Members.*
- (3) *Petitions received, in addition to the legislative requirements in 10 (1), must:*
 - (a) *Include the name and address of the person submitting the petition (the head petitioner)*
 - (b) *The cause, being the request or plea must be stated at the top of each page of the petition*
 - (c) *The signatories must complete the address field with a residential or business address (not an electronic address)*
 - (d) *Be directed to Council either by mail, fax, or attached as a document and emailed to alex@alexandrina.sa.gov.au*
 - (e) *Social media petitions must be addressed to the Head Petitioner*

- (f) *An online petition is a compliant petition provided it satisfies the criteria prescribed by regulation 10(1) of the Regulations set out above and this Code of Practice.*
- (4) *Council will:*
 - (a) *Acknowledge receipt of petition*
 - (b) *Petitions will be addressed in the correct form on the agenda for the next ordinary Council meeting in accordance with the Regulations and this Code of Practice*
 - (c) *Receive the petition and if determined by Council, a further report will be prepared for Council consideration at a later date.*
- (5) *Sub-regulation (2) may be varied at the discretion of the Council pursuant to regulation 6.*

11. Deputations

- (1) A person or persons wishing to appear as a deputation at a meeting must deliver (to the principal office of the council) a written request to the council.
- (2) A person or person wishing to appear as a deputation at a meeting may appear by electronic means.
- (3) The Chief Executive Officer must transmit a request received under *sub-regulation (1)* to the Presiding Member.
- (4) The Presiding Member may refuse to allow the deputation to appear at a meeting.
- (5) The Chief Executive must take reasonable steps to ensure that the person or persons who requested a deputation are informed of the outcome of the request.
- (6) The Chief Executive Officer will (with respect to a request that has not been refused), when information the person or persons who requested the deputation of the outcome of their request, indicate the method by which the person or persons are to appear at the meeting.
- (7) If the Presiding Member refuses to allow a deputation to appear at a meeting, the Presiding Member must report the decision to the next meeting of the council or council committee (as the case may be).
- (8) The council or council committee may resolve to allow a deputation to appear despite a contrary ruling by the Presiding Member.
- (9) A council may refer the hearing of a deputation to a council committee.

12. Motions

- (1) A member may bring forward any business in the form of a written notice of motion.
- (2) The notice of motion must be given to the Chief Executive at least five (5) clear days before the date of the meeting at which the motion is to be moved.³
- (3) A motion the effect of which, if carried, would be to revoke or amend a resolution passed since the last general election of the council must be brought by written notice of motion.
- (4) If a motion under *sub-regulation (3)* is lost, a motion to the same effect cannot be brought:
 - (a) until after the expiration of 12 months

³ The motion will have background information and officers' comments where relevant.



- (b) until after the next general election,
whichever is the sooner.
- (5) Subject to the Act and these procedures, a member may also bring forward any business by way of a motion without notice.
- (6) The Presiding Member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, they consider that the motion should be dealt with by way of a written notice of motion.
- (7) The Presiding Member may refuse to accept a motion if the subject matter is, in their opinion, beyond the power of the council or council committee (as the case may be).
- (8) A motion will lapse if it is not seconded at the appropriate time.
- (9) (a) A member moving a motion will speak to the motion at the time of moving the motion.
(b) A member seconding a motion may elect to either speak to the motion at the time of seconding or may reserve their right to speak to the motion until a later stage of the debate. Where a member seconds a motion and reserves their right to speak to it, they will not be considered to have spoken to the motion.
- (10) A member may only speak once to a motion except:
 - (a) to provide an explanation in regard to a material part of his or her speech, but not so as to introduce any new matter
 - (b) with leave of the meeting
 - (c) as the mover in reply.
- (11) (a) A member who has spoken to a motion may not at a later stage of the debate move or second an amendment to the motion.
- (12) (b) A member who has seconded a motion, and has reserved their right to speak to the motion at a later stage pursuant to sub-regulation (15), may move or second an amendment to the motion.
- (13) A member who has not spoken in the debate on a question may move a formal motion.
- (14) A formal motion must be in the form of a motion set out in *sub-regulation (15)* (and no other formal motion to a different effect will be recognised).
- (15) If the formal motion is:
 - (a) that ***the meeting proceed to the next business***, then the effect of the motion, if successful, is, in the case of an amendment, that the amendment lapses and the meeting proceeds with the consideration of the motion before the meeting without further reference to the amendment and, in the case of a motion, that the motion lapses and the meeting proceeds to the next item of business
 - (b) that ***the question be put***, then the effect of the motion, if successful, is that debate is terminated and the question put to the vote by the Presiding Member without further debate
 - (c) that ***the question lie on the table***, then the effect of the motion, if successful, is that the meeting immediately moves to the next item of business and the question

- can then only be retrieved at a later time by resolution (and, if so retrieved, debate is then resumed at the point of interruption)
- (d) that ***the question be adjourned***, then the effect of the motion, if successful, is that the question is disposed of for the time being but debate can be resumed at the later time (at the point of interruption), or
 - (e) that ***the meeting be adjourned***, then the effect of the motion, if successful, is that the meeting is brought to an end immediately without the consideration of further business.
- (16) If seconded, a formal motion takes precedence and will be put by the Presiding Member without discussion unless the motion is for an adjournment (in which case discussion may occur (but only occur) on the details for resumption).
- (17) A formal motion does not constitute an amendment to a substantive motion.
- (18) If a formal motion is lost:
- (a) the meeting will be resumed at the point at which it was interrupted
 - (b) if the formal motion was put during debate (and not at the end of debate) on a question, then a similar formal motion (ie a motion to the same effect) cannot be put until at least one member has spoken on the question.
- (19) A formal motion for adjournment must include the reason for the adjournment and the details for resumption.
- (20) Any question that lies on the table as a result of a successful formal motion under sub-regulation (14) (c) lapses at the next general election.
- (21) The Chief Executive must report on each question that lapses under *sub-regulation (22)* to the council at the first ordinary meeting of the council after the general election.
- (22) *Sub-regulation (9), (10) and (11)* may be varied at the discretion of the council pursuant to *regulation 6*.

13. Amendments to Motions

- (1)
 - (a) *Subject to sub-regulation 11(a), a member who has not spoken to a motion at an earlier stage of the debate may move or second an amendment to the motion.*
 - (b) *A member moving an amendment will speak to the amendment at the time of moving the amendment.*
 - (c) *A member seconding an amendment may elect to either speak to the amendment at the time of seconding or may reserve their right to speak to the amendment until a later stage of the debate. Where a member seconds an amendment and reserves their right to speak to it, they will not be considered to have spoken to the amendment.*
- (2) An amendment will lapse if it is not seconded at the appropriate time.
- (3) A person who moves or seconds an amendment (and, if he or she chooses to do so, speaks to the amendment) will, in so doing, be taken to have spoken to the motion to which the amendment relates.
- (4) If an amendment is lost, only one (1) further amendment may be moved to the original motion.
- (5) If an amendment is carried, only one (1) further amendment may be moved to the original motion.

- (6) *Sub-regulation (1), (3) (4) and (5) may be varied at the discretion of the council pursuant to regulation 6.*

14. Variations etc.

- (1) The mover of a motion or amendment may, with the consent of the seconder, request leave of the meeting to vary, alter or withdraw the motion or amendment.
- (2) The Presiding Member must immediately put the question for leave to be granted and no debate will be allowed on that question.

15. Addresses by Members etc.

- (1) A member must not speak for longer than five (5) minutes at any one (1) time without leave of the meeting.
- (2) A member may, with leave of the meeting, raise a matter of urgency.
- (3) A member may, with leave of the meeting, make a personal explanation.
- (4) The subject matter of a personal explanation may not be debated.
- (5) The contribution of a member must be relevant to the subject matter of the debate.
- (6) *Sub-regulation (1) and (2) may be varied at the discretion of the council pursuant to regulation 6.*

16. Voting

- (1) The Presiding Member, or any other member, may ask the Chief Executive to read out a motion before a vote is taken.
- (2) The Presiding Member will, in taking a vote, ask for the votes of those members in favour of the question and then for the votes of those members against the question (and may do so as often as is necessary to enable him or her to determine the result of the voting), and will then declare the outcome.
- (3) A vote in relation to a question for decision before the Council may be taken:
 - (a) A show of hands; or
 - (b) Where a member is participating in a meeting via electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative
- (4) The presiding member, or any other member, may ask the chief executive officer to read out a motion or amendment before a vote is taken.
- (5) In relation to a member participating in a Council meeting by electronic means, a member is not permitted to vote in circumstance where there has been a disconnection of the electronic means
- (6) If physically present, a person who is not in his or her seat is not permitted to vote.
- (7) *Sub-regulation (3):*
 - (a) may be varied at the discretion of the council pursuant to *regulation 6*, and
 - (b) does not apply in relation to a member participating in a council committee meeting by telephone or electronic means approved in accordance with procedures determined by the council or council committee for the purposes of *section 89* of the Act.

17. Divisions

- (1) A division will be taken at the request of a member.
- (2) If a division is called for, it must be taken immediately and the previous decision of the Presiding Member as to whether the motion was carried or lost is set aside.
- (3) The division will be taken as follows:
 - (a) except for a member participating in a meeting by electronic means which has audio only:
 - (i) the members voting in the affirmative will, until the vote is recorded, stand in their places
 - (ii) the members voting in the negative will, until the vote is recorded, sit in their seats
 - (iii) the Presiding Member will count the number of votes and then declare the outcome
 - (iv) A member who is unable to stand due to injury, illness, infirmity, disability or other cause, must advise the Presiding Member that they require special arrangements to be made in order for their vote to be adequately signalled to those persons present, and so that such vote is accurately recorded in the minutes. The Presiding Member may, in consultation with the member concerned, determine the manner in which the member is to signal their vote.
 - (b) where a member is participating in a meeting by electronic means, the member will provide a verbal indication of voting in the affirmative or voting in the negative.
- (4) The Chief Executive will record in the minutes the names of members who voted in the affirmative and the names of the members who voted in the negative (in addition to the result of the vote).
- (5) *Sub-regulation (3)* may be varied at the discretion of the council pursuant to *regulation 6*.

18. Form of Participation by Electronic Means

Where:

- (a) a council member is to participate in a Council meeting by electronic means; and
- (b) the electronic means has the functionality to allow the Council member to participate in the meeting by being heard by not seen or by being both seen and heard; and
- (c) the electronic means of the Council has the functionality to allow the council member to be heard but not seen or to be both seen and heard,

the member must participate by being both seen and heard.

19. Tabling of Information

- (1) A member may require the Chief Executive to table any documents of the council relating to a motion that is before a meeting (and the Chief Executive must then table the documents within a reasonable time, or at a time determined by the Presiding Member after taking into account the wishes of the meeting, and if the member who has required the tabling indicates that he or

she is unwilling to vote on the motion until the documents are tabled, then the matter must not be put to the vote until the documents are tabled).

- (2) The Chief Executive may, in tabling a document, indicate that in his or her opinion consideration should be given to dealing with the document on a confidential basis under *section 90 or 91* of the Act.

20. Adjourned Business

- (1) If a formal motion for a substantive motion to be adjourned is carried:
 - (a) the adjournment may either be to a later hour of the same day, to another day, or to another place, and
 - (b) the debate will, on resumption, continue from the point at which it was adjourned.

If debate is interrupted for want of a quorum and the meeting is then adjourned, the debate will, on resumption, continue from the point at which it was interrupted.

- (2) Business adjourned from a previous meeting must be dealt with before any new business at a subsequent meeting.
- (3) The provisions of this procedure may be varied at the discretion of the council pursuant to regulation 6.

21. Short-term Suspension of Proceedings

- (1) If the Presiding Member considers that the conduct of a meeting would benefit from suspending the operation of all or some of the provisions of this Division for a period of time in order to allow or facilitate informal discussions, the Presiding Member may, with the approval of at least two-thirds of the members present at the meeting, suspend the operation of this Division (or any part of this Division) for a period determined by the Presiding Member.
- (2) The Guiding Principles must be taken into account when considering whether to act under *sub-regulation (1)*.
- (3) If a suspension occurs under *sub-regulation (1)*:
 - (a) a note of the suspension, including the reasons for and period of suspension, must be entered in the minutes
 - (b) the meeting may proceed provided that a quorum is maintained but, during the period of suspension:
 - (i) the provisions of the Act must continue to be observed
 - (ii) no act or discussion will have any status or significance under the provisions which have been suspended, and
 - (iii) no motion may be moved, seconded, amended or voted on, other than a motion that the period of suspension should be brought to an end.
 - (c) the period of suspension should be limited to achieving the purpose for which it was declared
 - (d) the period of suspension will come to an end if:
 - (i) the Presiding Member determines that the period should be brought to an end, or



- (ii) at least two-thirds of the members present at the meeting resolve that the period should be brought to an end.

Note: See particularly *Part 4 of Chapter 5* and *Chapter 6* of the Act

22. Suspension of other Inconsistent Provisions

To the extent that any other discretionary provisions of this Code of Practice or specific procedure adopted by the Council in this Code of Practice could be read as being inconsistent or incompatible with the ability of a member of the Council to participate in a meeting of the Council by electronic means, the provision is suspended in respect of the member while they are participating in the meeting by electronic means.

In circumstances where a provision is suspended under this paragraph, the presiding member may give directions to a member of the Council in respect of an alternative method of compliance with the suspended provision.

Any member who disagrees with a direction of the presiding member under this paragraph may move a motion that the direction not be adhered to. Such a motion must be moved immediately following the issuance of the direction. In the event such a motion is successful, the meeting may give directions to a member, by resolution.

23. Chief Executive may submit report recommending revocation or amendment of council decision

- (1) The Chief Executive may submit a report to the council recommending the revocation or amendment of a resolution passed since the last general election of the council.
- (2) The Chief Executive must ensure that the report is placed on the agenda for the meeting at which the report is to be considered.
- (3) The provisions of this procedure may be varied at the discretion of the council pursuant to *regulation 6*.

Part 3 - Meetings of other committees (to which Part 2 does not apply)

22. Application of Part 3

The provisions of this Part apply to or in relation to the meetings of any council committee that is not subject to the operation of Part 2.

23. Notice of meetings for Members

Pursuant to *section 87(15)* of the Act, *section 87* is modified in its application in relation to the meetings of a Committee to which this Part applies as if *subsections (4) and (7) to (10)* of that section provided as follows:

- (1) That notice of a meeting of the committee may be given in a form determined by the committee after taking into account the nature and purpose of the committee
- (2) That notice need not be given for each meeting separately
- (3) That if ordinary meetings of the committee have a set agenda then notice of such a meeting need not contain, or be accompanied by, the agenda for the meeting, and
- (4) That it is not necessary for the Chief Executive to ensure that each member of the committee at the time that notice of a meeting is given is supplied with a copy of any documents or reports that are to be considered at the meeting.

24. Public Notice of committee meetings

- (1) Pursuant to *section 88(7)* of the Act, *section 88* is modified in its application in relation to the meetings of a committee to which this Part applies as if *subsections (2), (3) and (4)* provided as follows:
 - (a) that public notice need not be given for each meeting separately, and
 - (b) that public notice may be given by displaying a notice and agenda in a place or places determined by the Chief Executive after taking into account the nature and purpose of the committee.

25. Minutes

- (1) The minutes of the proceedings of a meeting must include:
 - (a) the names of the members present at the meeting via the below methods:
 - (i) physical attendance;
 - (ii) by an audio-visual link;
 - (iii) by an audio link;
 - (iv) by telephone
 - (b) each motion carried at the meeting
 - (c) any disclosure of interest made by a member
 - (d) details of the making of an order under *subsection (2) of section 90* of the Act (see *subsection (7)* of that section), and
 - (e) a note of the making of an order under *subsection (7) of section 91* of the Act in accordance with the requirements of *subsection (9)* of that section.



- (2) The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.

Part 4 - Miscellaneous

26. Quorum for committees

- (1) The prescribed number of members of a council committee constitutes a quorum of the committee and no business can be transacted at a meeting unless a quorum is present⁴.
- (2) For the purposes of this regulation, the **prescribed number** of members of a council committee is:
 - (a) unless paragraph (b) applies—a number ascertained by dividing the total number of members of the committee by two (2), ignoring any fraction resulting from the division, and adding one (1), or
 - (b) a number determined by the council.

27. Voting at committee meetings

- (1) Subject to the Act and these procedures, a question arising for decision at a meeting of a council committee will be decided by a majority of the votes cast by the members present at the meeting and entitled to vote on the question.
- (2) Each member of a council who is a member of a council committee and who is present at a meeting of the committee must, subject to a provision of the Act to the contrary, vote on a question arising for decision at that meeting.
- (3) ***Each member of a council committee (regardless of whether they are also a member of the council) who is present at a meeting of the committee must, subject to a provision of the Act to the contrary, vote on a question for decision at that meeting.***
- (4) The Presiding Member of a council committee has a deliberative vote on a question arising for decision at the meeting but does not, in the event of an equality of votes, have a casting vote.

28. Points of Order

- (1) The Presiding Member may call to order a member who is in breach of the Act or these procedures.
- (2) A member may draw to the attention of the presiding member a breach of the Act or these procedures, and must state briefly the nature of the alleged breach.
- (3) A point of order takes precedence over all other business until determined.
- (4) The Presiding Member will rule on a point of order.
- (5) If an objection is taken to the ruling of the Presiding Member, a motion that the ruling not be agreed with must be moved immediately.
- (6) The Presiding Member is entitled to make a statement in support of the ruling before a motion under *sub-regulation (5)* is put.
- (7) A resolution under *sub-regulation (5)* binds the meeting and, if a ruling is not agreed with:
 - (a) the ruling has no effect, and
 - (b) the point of order is annulled.

⁴ See also section 41(6) of the Act.

29. Interruption of meetings by members

- (1) A member of the council or council committee must not, while at a meeting:
 - (a) behave in an improper or disorderly manner, or
 - (b) cause an interruption or interrupt another member who is speaking.
- (2) *Sub-regulation (1)(b)* does not apply to a member who is:
 - (a) objecting to words used by a member who is speaking
 - (b) calling attention to a point of order, or
 - (c) calling attention to want of a quorum.
- (3) If the Presiding Member considers that a member may have acted in contravention of *sub-regulation (1)*, the member must be allowed to make a personal explanation.
- (4) Subject to complying with *sub-regulation (3)*, the relevant member must leave the meeting while the matter is considered by the meeting.
- (5) If the remaining members resolve that a contravention of *sub-regulation (1)* has occurred, those members may, by resolution:
 - (a) censure the member, or
 - (b) suspend the member for a part, or for the remainder, of the meeting.
- (6) A member who:
 - (a) refuses to leave a meeting in contravention of *sub-regulation (4)*, or
 - (b) enters a meeting in contravention of a suspension under *sub-regulation (5)*, is guilty of an offence.

Maximum penalty: \$1,250.

30. Interruption of meetings by others

A member of the public who is present at a meeting of the council or council committee must not:

- (1) behave in a disorderly manner, or
- (2) cause an interruption.

Maximum penalty: \$500.

Part 5 – Supplementary Procedures for council and committees

31. Setting of Agenda

- (1) The following will appear at the beginning of the agenda of all council meetings and will be read by the Presiding Member at the commencement of each council meeting and other appropriate functions of council:
 - (a) “The Alexandrina Council and its communities acknowledge the Ngarrindjeri people as the traditional custodians of the lands and waters of our Council district.”
 - (b) “Almighty God, we humbly beseech thee to grant thy blessing upon the works of this Council, guide us in our deliberations for the advancement and the true welfare of the people of the district.”
- (2) Presiding Members of council committees can use their discretion regarding the Acknowledgement and Prayer by either insertion of an alternative shortened version or exclusion.
- (3) There will be no item of “Other Business” on the agenda of Council or Committee meetings. Sufficient opportunity is afforded to members to raise any issue in accordance with this Code of Practice, the Act and Regulations.
- (4) Committees can include an Agenda Item “Urgent Business” however matters must be limited to matters within the terms of reference of the Committee.
- (5) All items for inclusion in the agenda of a Council or Committee meeting must be given to the Chief Executive at least five (5) clear days before the date of the meeting at which the item is to be considered.
- (6) Reports of members should be restricted to items of particular interest or concern to the council. Reports that merely register attendance or representation of the council are to be written and handed to the minute secretary for recording in the minutes of the meeting.
- (7) The Resolutions Registers will be an ongoing agenda item at each council meeting.

Sub-paragraph (5) and (6) above do not apply to items that are, or likely to be, confidential.

32. Notice of meeting for members

- (1) That notice of a meeting of a committee must be given in writing, at least three (3) clear days prior to the date of the meeting
- (2) That notice will be given for each meeting separately except where the Chief Executive considers that it is more appropriate in the circumstances to provide notice of multiple meetings in a single notice (for example where a series of meetings are required within a short period of time), and
- (3) That, where reasonably practicable, the notice of meeting will be accompanied by the agenda and any associated papers — in the event that notice of meeting is not accompanied by the agenda and any associated papers, adequate time will be provided during the meeting for members to read additional documents prior to discussion of them.

33. Officer's Presentation of Late Material

- (1) An officer's report which has not been included in the agenda for a meeting may only be placed before the meeting where the officer responsible for the report has obtained the agreement, before the meeting, of both the Presiding Member and the Chief Executive that the report be presented.
- (2) The Presiding Member and the Chief Executive may only grant their consent to a report being presented to a council or committee meeting pursuant to sub-paragraph (1) above where, in their opinion, an urgent decision is required from the council or committee which cannot be delayed until the next meeting.
- (3) Where the material relevant to the presentation of a late report under this clause has been supplied to members just prior to or during a meeting, the Presiding Member must allow adequate reading time prior to consideration of the matter, in consultation with, and at the discretion of, the members.

34. Commencement of Meetings

- (1) Clause 7 (1) (4) and (5) of this Code of Practice apply to meetings of all other committees.
- (2) If at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present, the Presiding Member will adjourn the meeting to a specified day and time.

35. Variation of Order of Agenda

- (1) The Presiding Member may, with the consent of the majority of the council or committee, vary the order of the agenda.
- (2) Where there are members of the public present in the gallery, council staff should (where possible) determine any agenda item(s) of particular interest to those persons and provide such information to the Presiding Member as soon as practicable (and preferably before the meeting commences).

36. Adjournment of Meetings

Where a meeting continues to 10pm, unless there is a specific motion adopted at the meeting that it continue beyond this time, the meeting (and, hence, all remaining business) will be adjourned to a date and time specified by the Presiding Member.

37. Deputations

- (1) A deputation, may not exceed three people, must not exceed five (5) minutes, not including questions from members, except with the consent of the council or committee.
- (2) The Council will permit three deputations relevant to the same item of business at any one Council meeting. If more than three requests are received, requests received first will be permitted to appear subject to the consent of the Presiding Member.
- (3) Notice of deputations must be made at least 3 days prior to the meeting and in writing to the Chief Executive.

38. Reports of Members

Where a Member makes a report to the council under paragraph 31(6) of this Code, the minutes will reflect only that the member made a report and a brief description of the matter. In all cases the Chief Executive will determine the content of the brief description in their absolute discretion.

39. Questions for clarification purposes

- (1) A member may ask a question prior to the moving of a motion or during a debate on a motion or amendment to a motion for clarification purposes only without losing their right to speak to the motion or amendment. At the discretion of the Presiding Member, a question can be directed by any member, irrespective of whether that member has spoken to the motion or not, to another member for the purpose of:
 - (a) Seeking clarification of that other member's submissions in the debate, or
 - (b) Obtaining information within the intrinsic knowledge or expertise of that other member.
- (2) Members are encouraged to seek answers to questions prior to a council or committee meeting.

40. Motion on Notice

- (1) Where a member who has given notice of a motion in accordance with Regulation 12 (2) is absent from the meeting at which the motion is to be considered, the motion will be adjourned to the next meeting unless the Presiding Member has received written authority from the member in advance of the meeting for a different member to motive the notice of motion.

41. Questions without Notice

- (1) A member may ask a question without notice at a meeting.
- (2) If the Presiding Member rules that a question without notice can be answered and the meeting resolve to record an entry in the minutes, the member will be asked to supply their question in writing to the minute secretary.
- (3) If the Presiding Member rules that a question without notice can be answered the Chief Executive or General Manager may take the question on notice, in which case the answer will appear as a question on notice in the agenda of the next meeting of Council.

42. Committee Reports to the council

- (1) Committees are to report to the council through the delivery of minutes to the council.
- (2) Committee minutes are to be presented to the council by the Presiding Member of the committee where the Presiding Member is also an elected member of the council. Where this is not the case an elected member on the committee nominated by the Presiding member will perform this function.
- (3) In presenting the minutes, any member of the council can move the motion that the minutes be adopted by the council.
- (4) Adoption of committee minutes by the council can occur without the minutes being confirmed by the committee.
- (5) Each recommendation contained within the committee minutes and the merits of each recommendation will be considered by the council on an item-by-item basis and subject to a separate motion moved and seconded.

- (6) To ensure adherence to the principles of informed and responsible decision-making, any report considered by the committee will be provided to each elected member.

43. Addresses by Members

- (1) A member who intends to speak at a council meeting must raise their hand to signal their intention to the Presiding Member that they wish to speak who will call upon them in turn. A member is not required to stand whilst addressing the meeting.
- (2) The Presiding Member shall reserve their contribution to the end of the debate (but before the mover speaks in reply) so as to avoid any suggestion of 'leading' the meeting.
- (3) The Presiding Member of a committee will determine how members are to signal their intention to speak. Members are not required to stand when addressing a committee. Members must at all times address the meeting through the Presiding Member.
- (4) Where two or more members indicate their intention to speak at a meeting at the same time, the Presiding Member will determine in which order the members will be heard.
- (5) A member is at all times during a meeting to address and refer to another member or an officer or employee by their official title or designation.
- (6) A member is at all times during a meeting to address and refer to another member or an officer or employee by their official title or designation.
- (7) A member speaking at a meeting is not to make a personal reflection upon, or impute an improper motive to, another member or to an officer or employee.
- (8) If physically present, a member speaking at a meeting is to use a microphone.

44. Mobile Telephones (if physically present)

- (1) Mobile telephones, smart devices (including but not limited to iPad's etc.) may be placed in silent mode during a meeting by members and officers so as to be contactable in case of family emergency or for the review of council documentation ONLY.
- (2) Mobile telephones, smart devices (including but not limited to iPad's etc) may not be used during a meeting by media representatives or persons in the public gallery. Mobile phones, if brought into the Council chambers, or Committee room, must be switched off, or turned to silent mode before the meeting commences.

45. Nomination/Appointment of elected members to internal and external positions

Procedure for nomination/appointment of elected members to internal and external positions

- (1) Before debate on the item, the Presiding Member will call for a short term suspension of proceedings to undertake a ballot process.

Note: This requires the consent of two thirds of the members present. (by physical attendance or other electronic means)

- (2) The Presiding Member will call for nominations.
- (3) All elected members (including the Presiding Member) will record their vote by placing a 1, 2 and 3 (in the case of 3 candidates with the 1 going to the most preferred candidate, 1, 2, 3 and 4 in the case of 4 candidates etc) against the preferred elected members name (or names for more than one position) on the ballot paper.
- (4) Group Manager Leadership will collect the ballot papers.



- (5) The Chief Executive and General Manager Organisation & Culture will count the votes separately and confirm numbers.
- (6) The Chief Executive will then report the numbers to the Presiding Member. The Presiding Member will confirm by counting the votes.
- (7) The Presiding Member will announce the successful candidate.
- (8) The Presiding Member will then bring the suspension of meeting procedures to an end.
- (9) The Presiding Member will ask for an elected member to move a motion in relation to the item to confirm the outcome of the ballot.

46. Recording of Council meetings

- (1) Council will record its meetings and retain copies of the recording for a period of time.
- (2) The proceedings of a Council or Committee meeting are not permitted to be photographed or recorded in any way by members of the public unless permission is specifically sought and given by the Mayor and Chief Executive prior to the meeting.

Appendix A

Specific powers of the Presiding Member

The Regulations give specific powers and responsibilities to the Presiding Member in the following circumstances -

Minutes

- Signing the minutes once a motion of confirmation has been carried – *Regulation 8*.

Questions

- The Presiding Member may allow the answer to a question without notice to be given at the next meeting (*Regulation 9 (4)*).
- The Presiding Member may rule that a question with or without notice not be answered if the Presiding Member considers that the question is vague, irrelevant, insulting or improper (*Regulation 9 (6)*).

Deputations

- A request for a deputation must be in writing to the Chief Executive who passes it to the Presiding Member.
- The Presiding Member may refuse to allow a deputation to appear at a meeting. If the Presiding Member refuses to allow a deputation he / she must report the decision to the next meeting of the Council or committee. The Council or committee may resolve to allow the deputation to appear despite a contrary ruling by the Presiding Member (*Regulation 11 (5) & (6)*).

Motions

- The Presiding Member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he / she considers that the motion should be dealt with by way of written notice of motion (*Regulation 12(6)*).
- The Presiding Member may refuse to accept a motion if the subject matter is, in their opinion, beyond the power of the Council or committee.

Short-term suspension

- The Presiding Member, with the consent of two thirds of the members present, may suspend the operation of all or part of *Division 2 of the Regulations* for a short time if they consider that the conduct of the meeting would benefit from such a suspension. The Presiding Member may in his / her discretion determine that a short term suspension be brought to an end (*Regulation 20*).

Point of order

A point of order is a breach of the provisions of the Act or Regulation.

- The Presiding Member may call to order a member who is in breach of the Act or Regulations.
- The Presiding Member will rule on a point of order – (*Regulation 28*).
- If an objection is taken to the ruling of the Presiding Member, a motion that the ruling not be agreed with must be moved immediately. The Presiding Member is entitled to make a statement in support of his / her ruling before putting the motion to not agree with the ruling.



ADDENDUM TO THE CODE OF PRACTICE - MEETING PROCEDURES

EXTRACT FROM

THE LOCAL GOVERNMENT ACT (SA) 1999 CHAPTER 6 - MEETINGS

Chapter 6—Meetings

Part 1—Council meetings

81—Frequency and timing of ordinary meetings

- (1) Subject to this section, ordinary meetings of a council will be held at times and places appointed by a resolution of the council.
- (2) There must be at least one ordinary meeting in each month.
- (3) If a time and place has not been appointed for the holding of an ordinary meeting during a month, the chief executive officer must appoint the time and place at which the ordinary meeting for the month is to be held.
- (4) The chief executive officer must also appoint the time and place at which the first ordinary meeting of a council will be held—
 - (a) after the council is constituted under Chapter 3; or
 - (b) after a general election of the council.
- (5) Ordinary meetings of a council may not be held on Sundays, or on public holidays.
- (6) In the case of a municipal council, ordinary meetings of the council may not be held before 5 p.m. unless the council resolves otherwise by a resolution supported unanimously by all members of the council.
- (7) A resolution under subsection (6) does not operate in relation to a meeting held after the conclusion of the general election next held following the making of the resolution.

82—Calling of special meetings

- (1) The chief executive officer must, at the request of—
 - (a) the principal member of the council; or
 - (b) at least three members of the council; or
 - (c) a council committee at which at least three members of the council vote in favour of the making of the request,call a special meeting of the council.
- (2) The chief executive officer must be provided with an agenda for the special meeting at the time that a request is made under subsection (1) (and if an agenda is not provided then the request has no effect).
- (3) Special meetings may be held at any time.

83—Notice of ordinary or special meetings

- (1) In the case of an ordinary meeting, the chief executive officer must give each member of the council notice of the meeting at least three clear days before the date of the meeting.

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- (2) In the case of a special meeting, the chief executive officer must give each member of the council notice of the meeting at least four hours before the commencement of the meeting.
 - (3) Notice of a meeting of the council must—
 - (a) be in writing; and
 - (b) set out the date, time and place of the meeting; and
 - (c) be signed by the chief executive officer; and
 - (d) contain, or be accompanied by, the agenda for the meeting.
 - (4) The chief executive officer must, insofar as is reasonably practicable—
 - (a) ensure that items on an agenda given to members of the council under this section are described with reasonable particularity and accuracy; and
 - (b) supply to each member of the council at the time that notice of a meeting is given a copy of any documents or reports that are to be considered at the meeting (so far as this is practicable).
 - (5) The chief executive officer may indicate on a document or report provided to members of the council under subsection (4) (or on a separate notice) any information or matter contained in or arising from a document or report that may, if the council so determines, be considered in confidence under Part 3, provided that the chief executive officer at the same time specifies the basis on which an order could be made under that Part.
 - (6) Notice may be given to a member of a council under this section—
 - (a) personally; or
 - (b) by delivering the notice (whether by post or otherwise) to the usual place of residence of the member or to another place authorised in writing by the member; or
 - (c) by leaving the notice for the member at an appropriate place at the principal office of the council, if authorised in writing by the member to do so; or
 - (d) by a means authorised in writing by the member as being an available means of giving notice (eg facsimile transmission).
 - (7) A notice that is not given in accordance with subsection (6) is taken to have been validly given if the chief executive officer considers it impracticable to give the notice in accordance with that subsection and takes action the chief executive officer considers reasonably practicable in the circumstances to bring the notice to the attention of the member.
 - (8) The chief executive officer must maintain a record of all notices of meetings given under this section to members of the council.
 - (9) The fact that a notice of a meeting has not been given to a member of a council in accordance with this section does not, of itself, invalidate the holding of the meeting or a resolution or decision passed or made at the meeting but the District Court may, on the application of the Minister, annul a resolution or decision passed or made at the meeting and make such ancillary or consequential orders as it thinks fit if satisfied that such action is warranted in the circumstances of the particular case.

84—Public notice of council meetings

- (1) The chief executive officer must give notice to the public of the times and places of meetings of the council.
- (1a) The chief executive officer must give the notice required under subsection (1) in the following manner:
 - (a) by causing a copy of the notice and the agenda for the meeting to be placed on public display at each office of the council that is open to the public for the general administration of council business within its area; and
 - (b) by publishing the notice and the agenda for the meeting on a website determined by the chief executive officer.
- (2) The notice required under subsection (1) must be given—
 - (a) in the case of an ordinary meeting—at least three clear days before the date of the meeting; or
 - (b) in the case of a special meeting—as soon as practicable after the time that notice of the meeting is given to members of the council.
- (2a) Without derogating from subsection (1a), the chief executive officer may also give notice to the public of the time and place of a meeting of the council in such other manner as the chief executive officer considers appropriate after taking into account—
 - (a) the characteristics of the council's community and area; and
 - (b) the best ways to bring notice of a meeting of the council to the public's attention; and
 - (c) such other matters as the chief executive officer thinks fit.
- (3) A person is entitled, on payment of a fee fixed by the council, to obtain a copy of a notice and agenda on display under subsection (1a)(a).
- (4) The notice and agenda must be kept on public display, and continue to be published on the website, under subsection (1a) until the completion of the relevant meeting.
- (5) The chief executive officer must also ensure that a reasonable number of copies of any document or report supplied to members of the council for consideration at a meeting of the council are available for inspection by members of the public—
 - (a) in the case of a document or report supplied to members of the council before the meeting—at the principal office of the council as soon as practicable after the time when the document or report is supplied to members of the council; or
 - (b) in the case of a document or report supplied to members of the council at the meeting—at the meeting as soon as practicable after the time when the document or report is supplied to members of the council.
- (6) However, subsection (5) does not apply to a document or report—
 - (a) that is subject to the operation of section 83(5); or
 - (b) that relates to a matter dealt with by the council on a confidential basis under Part 3.

85—Quorum

- (1) The prescribed number of members of a council constitutes a quorum of the council and no business can be transacted at a meeting unless a quorum is present.

The *prescribed number* of members of a council is a number ascertained by dividing the total number of members of the council for the time being in office by 2, ignoring any fraction resulting from the division, and adding one.

- (2) If a quorum is lost because a member cannot participate in a particular matter pursuant to Chapter 5 Part 4 Division 3, the matter must be adjourned (so that the remainder of the meeting may proceed).
- (3) If a quorum cannot be obtained for consideration of a particular matter because of the operation of Chapter 5 Part 4 Division 3, the council may proceed to consider the matter without a quorum with the approval of the Minister.

86—Procedure at meetings

- (1) The principal member of a council will preside at a meeting of the council.
- (2) If the principal member is absent from a meeting of a council and there is a deputy, the deputy will preside but if there is no deputy or the deputy is not available to preside, a member of the council chosen by those present will preside.
- (3) If—
 - (a) a person is to be chosen to be the principal member of a council at a meeting of the council; or
 - (b) a member of the council must be chosen by those present at a meeting of the council to preside at the meeting,

the chief executive officer will preside until the matter is decided.

- (4) Subject to this Act, a question arising for decision at a meeting of a council will be decided by a majority of the votes cast by the members present at the meeting and entitled to vote on the question.
- (5) Each member present at a meeting of a council must, subject to a provision of this Act to the contrary, vote on a question arising for decision at that meeting.
- (6) The mayor of a council, or other member presiding in the absence of the mayor, at a meeting of the council, does not have a deliberative vote on a question arising for decision at the meeting but has, in the event of an equality of votes, a casting vote.
- (7) The chairperson of a council, or other member presiding in the absence of the chairperson, at a meeting of the council, has a deliberative vote on a question arising for decision at the meeting but does not, in the event of an equality of votes, have a casting vote.
- (8) Subject to this Act, the procedure to be observed at a meeting of a council will be—
 - (a) as prescribed by regulation;
 - (b) insofar as the procedure is not prescribed by regulation—as determined by the council.
- (9) A meeting of a council may be adjourned from time to time and from place to place.

Part 2—Committee meetings

87—Calling and timing of committee meetings

- (1) Ordinary meetings of a council committee will be held at times and places appointed by the council or, subject to a decision of the council, the council committee.
- (2) A council or council committee must, in appointing a time for the holding of an ordinary meeting of a council committee, take into account—
 - (a) the availability and convenience of members of the committee; and
 - (b) the nature and purpose of the committee.
- (3) A resolution appointing a time for the holding of an ordinary meeting of a council committee does not operate after the conclusion of the general election next following the making of the resolution.
- (4) The chief executive officer must ensure that each member of a council committee is given notice of an ordinary meeting of the committee at least three clear days before the date of the meeting.
- (5) The chief executive officer must, at the request of—
 - (a) the presiding member of a council committee; or
 - (b) at least two members of a council committee,call a special meeting of a council committee.
- (6) Special meetings of a council committee may be held at any time.
- (7) The chief executive officer must ensure that each member of a council committee is given notice of a special meeting of the committee at least four hours before the commencement of the meeting.
- (8) Notice of a meeting of a council committee must—
 - (a) be in writing; and
 - (b) set out the date, time and place of the meeting; and
 - (c) contain, or be accompanied by, the agenda for the meeting.
- (9) The chief executive officer must, insofar as is reasonably practicable—
 - (a) ensure that items on an agenda given to members of a council committee under this section are described with reasonable particularity and accuracy; and
 - (b) ensure that each member of the committee at the time that notice of a meeting is given is supplied with a copy of any documents or reports that are to be considered at the meeting (so far as this is practicable).
- (10) The chief executive officer may indicate on a document or report provided to members of the committee under subsection (9) (or on a separate notice) any information or matter contained in or arising from a document or report that may, if the committee so determines, be considered in confidence under Part 3, provided that the chief executive officer at the same time specifies the basis on which an order could be made under that Part.

Part 2—Committee meetings

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- (11) Notice may be given to a member of a committee under this section—
- (a) personally; or
 - (b) by delivering the notice (whether by post or otherwise) to the usual place of residence of the member or to another place authorised in writing by the member; or
 - (c) by leaving the notice for the member at an appropriate place at the principal office of the council, if authorised in writing by the member to do so; or
 - (d) by a means authorised in writing by the member as being an available means of giving notice (eg facsimile transmission).
- (12) A notice that is not given in accordance with subsection (11) is taken to have been validly given if the chief executive officer considers it impracticable to give the notice in accordance with that subsection and takes action the chief executive officer considers reasonably practicable in the circumstances to bring the notice to the attention of the member of the committee.
- (13) The chief executive officer must ensure that a record of all notices of meetings given under this section is maintained.
- (14) The fact that a notice of a meeting has not been given to a member of a committee in accordance with this section does not, of itself, invalidate the holding of the meeting or a resolution or decision passed or made at the meeting but the District Court may, on the application of the Minister, annul a resolution or decision passed or made at the meeting and make such ancillary or consequential orders as it thinks fit if satisfied that such action is warranted in the circumstances of the particular case.
- (15) The regulations may modify the application of this section for council committees that are not performing regulatory activities of councils.

88—Public notice of committee meetings

- (1) The chief executive officer must ensure that notice is given to the public of the times and places of meetings of a council committee.
- (1a) The chief executive officer must give the notice required under subsection (1) in the following manner:
- (a) by causing a copy of the notice and the agenda for the meeting to be placed on public display at each office of the council that is open to the public for the general administration of council business within its area; and
 - (b) by publishing the notice and the agenda for the meeting on a website determined by the chief executive officer.
- (2) The notice required under subsection (1) must be given as soon as practicable after the time that notice of the meeting is given to members of the committee.
- (2a) Without derogating from subsection (1a), the chief executive officer may also give notice to the public of the time and place of a meeting of a council committee in such other manner as the chief executive officer considers appropriate after taking into account—
- (a) the work of the committee and the characteristics of the council's community and area; and

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- (b) the best ways to bring notice of a meeting of the committee to the public's attention; and
 - (c) such other matters as the chief executive officer thinks fit.
 - (3) A person is entitled, on payment of a fee fixed by the council, to obtain a copy of a notice and agenda on display under subsection (1a)(a).
 - (4) The notice and agenda must be kept on public display, and continue to be published on the website, under subsection (1a) until the completion of the relevant meeting.
 - (5) The chief executive officer must also ensure that a reasonable number of copies of any document or report supplied to members of a council committee for consideration at a meeting of the committee are available for inspection by members of the public at the principal office of the council as soon as practicable after the time when the document or report is supplied to members of the committee.
 - (6) However, subsection (5) does not apply to a document or record—
 - (a) that is subject to the operation of section 87(10); or
 - (b) that relates to a matter dealt with by the council or council committee on a confidential basis under Part 3.
 - (7) The regulations may modify the application of this section for council committees that are not performing regulatory activities of councils.

89—Proceedings of council committees

- (1) Subject to this Act, the procedure to be observed in relation to the conduct of meetings of a council committee will be—
 - (a) as prescribed by regulation;
 - (b) insofar as the procedure is not prescribed by regulation—as determined by the council;
 - (c) insofar as the procedure is not prescribed by regulation or determined by the council—as determined by the council committee itself.
- (2) A meeting of a council committee may be adjourned from time to time and from place to place.

Part 3—Public access to council and committee meetings

90—Meetings to be held in public except in special circumstances

- (1) Subject to this section, a meeting of a council or council committee must be conducted in a place open to the public.
- (2) A council or council committee may order that the public be excluded from attendance at a meeting to the extent (and only to the extent) that the council or council committee considers it to be necessary and appropriate to act in a meeting closed to the public in order to receive, discuss or consider in confidence any information or matter listed in subsection (3) (after taking into account any relevant consideration under that subsection).

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- (3) The following information and matters are listed for the purposes of subsection (2):
- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
 - (b) information the disclosure of which—
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest;
 - (c) information the disclosure of which would reveal a trade secret;
 - (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which—
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;
 - (e) matters affecting the security of the council, members or employees of the council, or council property, or the safety of any person;
 - (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
 - (g) matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
 - (h) legal advice;
 - (i) information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council;
 - (j) information the disclosure of which—
 - (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
 - (ii) would, on balance, be contrary to the public interest;
 - (k) tenders for the supply of goods, the provision of services or the carrying out of works;
 - (m) information relating to a proposed amendment to a Development Plan under the *Development Act 1993* before a Development Plan Amendment proposal relating to the amendment is released for public consultation under that Act;

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- (n) information relevant to the review of a determination of a council under the *Freedom of Information Act 1991*.
- (4) In considering whether an order should be made under subsection (2), it is irrelevant that discussion of a matter in public may—
- (a) cause embarrassment to the council or council committee concerned, or to members or employees of the council; or
 - (b) cause a loss of confidence in the council or council committee.
- (5) A person who, knowing that an order is in force under subsection (2), enters or remains in a room in which a meeting of the council or council committee is being held is guilty of an offence and liable to a penalty not exceeding \$500 and if such a person fails to leave the room on request it is lawful for an employee of the council or a member of the police force to use reasonable force to remove him or her from the room.
- (6) Subsection (5) does not apply to—
- (a) a member of the council or the council committee; or
 - (b) any other person permitted to be in the room by the council or the council committee.
- (7) If an order is made under subsection (2), a note must be made in the minutes of the making of the order and of the grounds on which it was made.
- (7a) A council committee meeting will be taken to be conducted in a place open to the public for the purposes of this section even if 1 or more committee members participate in the meeting by telephone or other electronic means in accordance with any procedures prescribed by the regulations or determined by the council under section 89 (provided that members of the public can hear the discussion between all committee members and subject to the qualification that a council may direct a committee not to use telephone or other electronic means for the purposes of its meetings).
- (8) The duty to hold a meeting of a council or council committee at a place open to the public does not in itself make unlawful informal gatherings or discussion involving—
- (a) members of the council or council committee; or
 - (b) members of the council or council committee and staff,

provided that a matter which would ordinarily form part of the agenda for a formal meeting of a council or council committee is not dealt with in such a way as to obtain, or effectively obtain, a decision on the matter outside a formally constituted meeting of the council or council committee.

Examples—

The following are examples of informal gatherings or discussions that might be held under subsection (8):

- (a) planning sessions associated with the development of policies or strategies;
- (b) briefing or training sessions;
- (c) workshops;
- (d) social gatherings to encourage informal communication between members or between members and staff.

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- (9) In this section—
personal affairs of a person includes—
- (a) that person's—
 - (i) financial affairs;
 - (ii) criminal records;
 - (iii) marital or other personal relationships;
 - (iv) personal qualities, attributes or health status;
 - (b) that person's employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person,
- but does not include the personal affairs of a body corporate.

Part 4—Minutes of council and committee meetings and release of documents

91—Minutes and release of documents

- (1) The chief executive officer must ensure that minutes are kept of the proceedings at every meeting of the council or a council committee.
- (2) If the chief executive officer is excluded from a meeting pursuant to Part 3, the person presiding at the meeting must ensure that minutes are kept.
- (3) Each member of the council must, within five days after a meeting of the council or a council committee, be supplied with a copy of all minutes of the proceedings of the meeting kept under this section.
- (4) A copy of the minutes of a meeting of the council must be placed on public display in the principal office of the council within five days after the meeting and kept on display for a period of one month.
- (5) A person is entitled to inspect, without payment of a fee, at the principal office of the council—
 - (a) minutes kept under this section; and
 - (b) reports to the council or a council committee received at a meeting of the council or committee; and
 - (c) recommendations presented to the council in writing and adopted by resolution of the council; and
 - (d) budgetary or other financial statements adopted by the council.
- (6) A person is entitled, on payment of a fee fixed by the council, to a copy of any documents available for inspection under subsection (5).
- (7) However, subsections (4), (5) and (6) do not apply to a document or part of a document if—
 - (a) the document or part relates to a matter dealt with by the council or council committee on a confidential basis under Part 3; and

Minutes of council and committee meetings and release of documents—Part 4

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- (b) the council or council committee orders that the document or part be kept confidential.
- (8) A council must not make an order under subsection (7)—
- (a) to prevent the disclosure of the remuneration or conditions of service of an employee of the council after the remuneration or conditions have been set or determined; or
 - (b) to prevent the disclosure of the identity of a successful tenderer for the supply of goods or the provision of services (including the carrying out of works), or of any reasons adopted by the council as to why a successful tenderer has been selected; or
 - (ba) to prevent the disclosure of the amount or amounts payable by the council under a contract for the supply of goods or the provision of services (including the carrying out of works) to, or for the benefit of, the council after the contract has been entered into by all parties to the contract; or
 - (c) to prevent the disclosure of the identity of land that has been acquired or disposed of by the council, or of any reasons adopted by the council as to why land has been acquired or disposed of by the council.
- (9) If an order is made under subsection (7)—
- (a) the council or council committee must specify the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order must be reviewed, and, in any event, any order that operates for a period exceeding 12 months must be reviewed at least once in every year; and
 - (b) the council or council committee must ensure that a note is made in the minutes recording the making of the order, the grounds on which it was made, and the decision of the council or council committee under paragraph (a); and
 - (c) the council or council committee may delegate to an employee of the council the power to revoke the order.
- (10) No action for defamation lies against the council in respect of—
- (a) the accurate publication under this section of any information, statement or document (in whatever form); or
 - (b) the accurate publication under this section of a transcript, recording or other record of a meeting of a council or a council committee.
- (11) A document purporting to be minutes of proceedings at a meeting of a council, or a council committee, or to be a copy of or extract from such minutes, and to be signed by the chief executive officer, will be accepted as proof, in the absence of proof to the contrary, of the matters contained in the document.

Part 5—Code of practice

92—Access to meetings and documents—code of practice

- (1) A council must prepare and adopt a code of practice relating to the principles, policies, procedures and practices that the council will apply for the purposes of the operation of Parts 3 and 4.

Part 5—Code of practice

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- (2) A council must, within 12 months after the conclusion of each periodic election, review the operation of its code of practice under this section.
 - (3) A council may at any time alter its code of practice, or substitute a new code of practice.
 - (4) A code of practice must include any mandatory provision prescribed by the regulations.
 - (5) Before a council adopts, alters or substitutes a code of practice under this section it must—
 - (a) make copies of the proposed code, alterations or substitute code (as the case may be) available for inspection or purchase at the council's principal office; and
 - (b) follow the relevant steps set out in its public consultation policy.
 - (6) A person is entitled to inspect (without charge) the code of practice of a council at the principal office of the council during ordinary office hours.
 - (7) A person is entitled, on payment of a fee fixed by the council, to a copy of the code of practice.

Part 6—Meetings of electors

93—Meetings of electors

- (1) A council may convene a meeting of electors of the area or a part of the area.
- (2) The chief executive officer must, by advertisement in a newspaper circulating in the area, give notice of the time and place of a meeting of electors, and of the nature of the business to be transacted at the meeting, at least 14 days and not more than 28 days before the date of the meeting.
- (3) The following persons are entitled to attend and vote at a meeting convened under this section:
 - (a) in the case of a meeting of electors of an area—
 - (i) any person who is enrolled on the voters roll for the area as an elector; and
 - (ii) a nominee of a body corporate or group which has its name on the voters roll for the area;
 - (b) in the case of a meeting of electors of a part of an area—
 - (i) any person who is enrolled on the voters roll for the area as an elector—
 - (A) in respect of a place of residence within that part of the area; or
 - (B) in respect of rateable property within that part of the area; or
 - (ii) a nominee of a body corporate which is a ratepayer, or of a group of persons who are ratepayers, in respect of rateable property within that part of the area.

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- (4) A meeting of electors under this section cannot proceed unless at least one member of the council is present at the meeting.
 - (5) If the principal member of the council is present and available to preside at a meeting of electors held under this section, he or she must preside at the meeting.
 - (6) If the principal member is absent from a meeting of electors held under this section or is not available to preside at the meeting, the following provisions apply:
 - (a) if there is a deputy mayor or deputy chairperson available to preside at the meeting—the deputy must preside;
 - (b) if there is no deputy or he or she is not available to preside—a member of the council appointed by the council must preside;
 - (c) if no member of the council is so appointed or a member so appointed is absent from the meeting—a member chosen by the persons present and lawfully voting at the meeting must preside.
 - (7) A question to be decided at a meeting of electors will be decided by a majority of the votes of the persons present and lawfully voting at the meeting.
 - (8) A person present at the meeting who is entitled to vote on a question arising for decision at the meeting in his or her own capacity as an elector may also, if the person is a nominee of a body corporate or a group of persons who are ratepayers, vote in that capacity as a nominee.
 - (9) The member presiding at a meeting of electors does not, in the event of an equality of votes, have a casting vote.
 - (10) The chief executive officer of the council must ensure that minutes are kept of the proceedings at a meeting of electors.
 - (11) Each member of the council must, within five days after a meeting of electors, be supplied with a copy of the minutes of the proceedings.
 - (12) The member presiding at a meeting of electors must transmit a resolution passed at a meeting held under this section to the council.
 - (13) A meeting of electors may be adjourned from time to time and from place to place.
 - (14) The procedure to be observed to make a nomination for the purposes of subsection (3)(a)(ii) or (b)(ii) will be as determined by the council.
 - (15) Subject to this Act, the procedure to be observed at a meeting of electors will be as determined by the person presiding at the meeting.

Part 7—Related matters

93A—Audits by Ombudsman

- (1) The Ombudsman may, if the Ombudsman considers it to be in the public interest to do so, conduct a review of the practices and procedures (or of any aspect of the practices or procedures) of one or more councils or council committees under Part 3 or Part 4.
- (2) The Ombudsman may, in carrying out a review under this section, exercise the powers of the Ombudsman under the *Ombudsman Act 1972* as if carrying out an investigation under that Act, subject to such modifications as may be necessary, or as may be prescribed.

Part 7—Related matters

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- (3) At the conclusion of a review under this section, the Ombudsman may prepare a report on any aspect of the review.
 - (4) A report may make recommendations to a council or councils.
 - (5) The Ombudsman must supply a copy of any report to—
 - (a) the Minister; and
 - (b) any council that was under review, or that has (or had) a council committee that was under review,and may also publish any report, a part of any report, or a summary of any report, in such manner as the Ombudsman thinks fit.
 - (6) The Minister may also publish any report, a part of any report, or a summary of any report, in such manner as the Minister thinks fit.
 - (7) This section does not limit powers of investigation under other provisions of this or another Act.

94—Investigation by Ombudsman

- (1) The Ombudsman may, on receipt of a complaint, carry out an investigation under this section if it appears to the Ombudsman that a council may have unreasonably excluded members of the public from its meetings under Part 3 or unreasonably prevented access to documents under Part 4.
- (2) The Ombudsman may, in carrying out an investigation under this section, exercise the powers of the Ombudsman under the *Ombudsman Act 1972* as if carrying out an investigation under that Act.
- (3) At the conclusion of an investigation under this section, the Ombudsman must prepare a written report on the matter.
- (4) The Ombudsman must supply the Minister and the council with a copy of the report, and may also publish the report, a part of the report, or a summary of the report, in such manner as the Ombudsman thinks fit.
- (5) If the Minister, after taking into account the report of the Ombudsman under this section, believes that the council has unreasonably excluded members of the public from its meetings under Part 3 or unreasonably prevented access to documents under Part 4, the Minister may give directions to the council with respect to the future exercise of its powers under either or both of those sections, or to release information that should, in the opinion of the Minister, be available to the public.
- (6) The Minister must, before taking action under subsection (5), give the council a reasonable opportunity to make submissions to the Minister in relation to the matter.
- (7) A council must comply with a direction under subsection (5).
- (7a) The Minister may also publish the report, a part of the report, or a summary of the report, in such manner as the Minister thinks fit.
- (8) This section does not limit other powers of investigation under other provisions of this or another Act.



94A—Meeting information on website

The chief executive officer of a council must, so far as is reasonably practicable, make available for inspection on the Internet an up-to-date schedule of the dates, times and places set for meetings of the council and council committees.

95—Obstructing meetings

A person who intentionally obstructs or hinders proceedings at a meeting of a council or council committee, or at a meeting of electors, is guilty of an offence.

Maximum penalty: \$1,250.