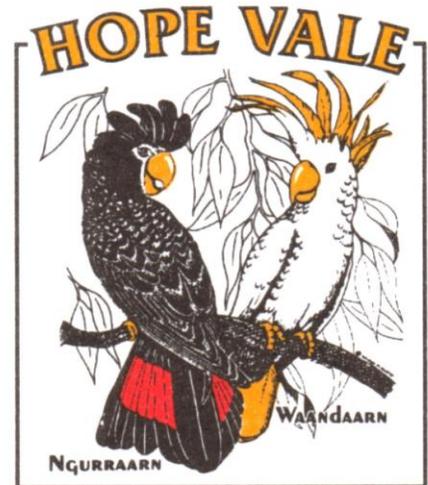


**HOPE VALE ABORIGINAL SHIRE COUNCIL**



**Standing Orders for Council Meetings Policy**

**Document Control**

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## STANDING ORDERS FOR COUNCIL MEETINGS

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### ORIGIN / AUTHORITY

*Local Government Act 2009*

*Chapter 5A, Division 5*

*Sections 150EW, 150ET, 257*

*Local Government Regulation 2012*

*Sections 254H, 254J*

### OBJECTIVES

To provide written rules for the orderly conduct of Council Meetings.

### Standing Orders

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

### Procedures for Meetings of Council

#### Presiding Officer

- 2.1 The mayor will preside at a meeting of local government.
- 2.2 If the mayor is absent or unavailable to preside, the deputy mayor will preside.
- 2.3 If both the mayor and the deputy mayor, or the mayor's delegate, are absent or unavailable to preside, a councillor chosen by the councillors present at the meeting will preside at the meeting.
- 2.4 The local government will choose the chairperson for a committee meeting. This chairperson will normally preside over meetings of the committee.
- 2.5 If the chairperson of a committee is absent or unavailable to preside, a councillor chosen by the councillors present will preside over the committee meeting.

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

### Order of Business

3.1 The order of business will be determined by resolution of the local government from time to time. The order of business may be altered for a particular meeting where the councillors at that meeting pass a procedural motion to that effect. A motion to alter the order of business may be moved without notice.

3.2 Unless otherwise altered, the order of business will be as follows:

- attendances
- apologies and granting of leaves of absence
- confirmation of minutes
- officers' reports.

**Note:** The minutes of a preceding meeting, whether an ordinary or a special meeting, not previously confirmed will be taken into consideration, at every ordinary meeting of the local government, in order that the minutes may be confirmed. No discussion will be permitted about these minutes except with respect to their accuracy as a record of the proceedings. Amendments to the minutes may be made prior to confirming the minutes. This must be done by moving a motion to amend the minutes that must be voted on and carried. Once the resolution is passed the minutes can be amended. All councillors present at the meeting can vote to confirm the minutes including those who were absent at the previous meeting and those who had a conflict of interest at the previous meeting.

### Agendas

4.1 The agenda may contain:

- notice of meeting
- minutes of the previous meetings
- business arising out of previous meetings
- business which the mayor wishes to have considered at that meeting without notice
- matters of which notice has been given
- committees' reports referred to the meeting by the chief executive officer (CEO)
- officers' reports referred to the meeting by the CEO
- deputations and delegations from the community that are approved to attend
- any other business the council determines by resolution be included in the agenda.

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

4.3 The agenda for the local government must be made publicly available by 5pm on the business day after the notice of meeting is given to the councillors. The related reports for the local government meeting must also be included and available to the public excluding confidential reports.

- 4.4 Matters on the agenda that will require the meeting to be in a closed session will be clearly identified including the reasons why the session will be closed.

#### Petitions

- 5.1 Any petition presented to a meeting of the local government will:
- be in legible writing or typewritten and contain a minimum of ten (10) signatures
  - include the name and contact details of the principal petitioner (i.e. the key contact)
  - include the postcode of all petitioners, and
  - have the details of the specific request/matter appear on each page of the petition.
- 5.2 Where a councillor presents a petition to a meeting of the local government, no debate in relation to it will be allowed, and the only motion which may be moved is:
- that the petition be received
  - received and referred to a committee or officer for consideration and a report to the council, or
  - not be received because it is deemed invalid.
- 5.3 The local government will respond to the principal petitioner in relation to all petitions deemed valid.

#### Deputations

- 6.1 A deputation wishing to attend and address a meeting of the council shall apply in writing to the CEO not less than seven (7) business days before the meeting.
- 6.2 The CEO, on receiving an application for a deputation, shall notify the chairperson who will determine whether the deputation may be heard. The CEO will inform the deputation of the determination in writing. Where it has been determined the deputation will be heard, a convenient time will be arranged for that purpose, and an appropriate time period allowed (e.g. 15 minutes).
- 6.3 For deputations comprising three or more persons, only three persons shall be at liberty to address the council meeting unless the councillors at the meeting determine otherwise by resolution. A deputation shall be given adequate opportunity to explain the purpose of the deputation.
- 6.4 If a member of the deputation other than the appointed speakers interjects or attempts to address the council meeting, the chairperson may terminate the deputation.
- 6.5 The chairperson may terminate an address by a person in a deputation at any time where:
- the chairperson is satisfied that the purpose of the deputation has been sufficiently explained to the councillors at the meeting
  - the time period allowed for a deputation has expired, or
  - the person uses insulting or offensive language or is derogatory towards councillors or others.
- 6.6 The CEO is responsible for the deputation including that the appointed speaker/s are

notified in writing of developments or future actions as appropriate.

#### Public participation at meetings

- 7.1 A member of the public may take part in the proceeding of a meeting only when invited to do so by the chairperson.
- 7.2 In each local government meeting, time may be required to permit members of the public to address the local government on matters of public interest related to local government. The time allotted shall not exceed fifteen (15) minutes and no more than three (3) speakers shall be permitted to speak at one meeting. The right of any individual to address the local government during this period shall be at the absolute discretion of the local government.
- 7.3 If any address or comment is irrelevant, offensive, or unduly long, the chairperson may require the person to cease making the submission or comment.
- 7.4 For any matter arising from such an address, the local government may take the following actions:
  - refer the matter to a committee
  - deal with the matter immediately
  - place the matter on notice for discussion at a future meeting
  - note the matter and take no further action.
- 7.5 Any person addressing the local government shall stand, and act and speak with decorum and frame any remarks in respectful and courteous language.
- 7.6 Any person who is considered by the local government or the mayor to be unsuitably dressed may be directed by the mayor or chairperson to immediately withdraw from the meeting. Failure to comply with such a request may be considered an act of disorder.

#### Prescribed conflict of interest

Councillors are ultimately responsible for informing of any prescribed conflict of interest on matters to be discussed at a council or committee meeting (other than ordinary business matters). When dealing with a prescribed conflict of interest, councillors must abide by the following procedures:

- 8.1 A councillor who has notified the chief executive officer of a prescribed conflict of interest in a matter to be discussed in a council meeting must also give notice during the meeting.
- 8.2 A councillor who first becomes aware of a prescribed conflict of interest in a matter during a council meeting must immediately inform the meeting of the conflict of the interest.
- 8.3 When notifying the meeting of a prescribed conflict of interest, the following details must be provided:
  - if it arises because of a gift, loan or contract, the value of the gift, loan or contract
  - if it arises because of an application or submission, the subject of the application or submission

- the name of any entity other than the councillor that has an interest in the matter
- the nature of the councillor’s relationship with the entity that has an interest in a matter
- details of the councillor’s and any other entity’s interest in the matter.

8.4 The councillor must then leave the place of the meeting, including any area set aside for the public, and stay away while the matter is being discussed and voted on, unless the subject councillor has written notice from the Minister to participate in the matter.

8.5 Once the councillor has left the area where the meeting is being conducted, the council can continue discussing and deciding on the matter at hand.

Declarable conflict of interest

Councillors are ultimately responsible for informing of any declarable conflict of interest on matters to be discussed at council or committee meetings that might lead to a decision that is contrary to the public interest (other than ordinary business matters).

A councillor may raise their personal interests in a matter at the meeting to canvas the view of the other councillors prior to deciding to declare a conflict of interest. If the other councillors suspect the personal interest might be a conflict of interest, the councillor may disclose their suspicion and the processes under section 150EW of the LGA.

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

9.1 A councillor who has notified the chief executive officer of a declarable conflict of interest in a matter to be discussed at a council meeting must also give notice during the meeting.

9.2 A councillor who first becomes aware of a declarable conflict of interest in a matter during a council meeting must inform the meeting of the conflict of interest

9.3 When notifying the meeting of a declarable conflict of interest, councillors should provide sufficient detail to allow the other councillors to make an informed decision about how best to manage the declarable conflict of interest in the public interest. The following details must be provided:

- the nature of the declarable conflict of interest
- if it arises because of the councillor’s relationship with a related party:
  - i. the name of the related party to the councillor
  - ii. the nature of the relationship of the related party to the councillor
  - iii. the nature of the related party’s interest in the matter
- if it arises because of a gift or loan from another person to the councillor or a related party:
  - i. the name of the other person
  - ii. the nature of the relationship of the other person to the councillor or related party
  - iii. the nature of the other person’s interest in the matter
  - iv. the value of the gift or loan and the date the gift or loan was made.

9.4 After a councillor has declared a conflict of interest, the councillor should consider leaving

the meeting while the matter is discussed unless they have reasons why their participation would improve making the decision in the public interest.

- 9.5 If the councillor chooses not to leave the meeting, the councillor may advise the other councillors of their reasons for seeking permission to participate in making the decision.
- 9.6 The other non-conflicted councillors at the meeting must then decide, by resolution, whether the councillor can participate in the decision making in relation to the matter, including voting on the matter, or whether they should not participate in the decision and leave the place of the meeting while the matter is decided by the non-conflicted councillors. The non-conflicted councillors may impose conditions on the councillor under a decision to either participate or leave the meeting e.g. may stay for the debate but must leave for the vote. The councillor must comply with any decision or condition imposed by the non-conflicted councillors.
- 9.7 In deciding on a councillor's declarable conflict of interest in a matter, only councillors who do not themselves have a prescribed or declarable conflict of interest in the matter are eligible to participate in the decision making. The decision may be made even if the number of those councillors is less than a majority or less than a quorum for the meeting consistent with section 150ET of the LGA.
- 9.8 The councillor who is the subject of the decision may remain in the meeting while the debate is occurring and can participate by answering questions from the chairperson to assist the other councillors in making their decision. The subject councillor must not vote or otherwise participate in making the decision but may remain in the meeting while the vote on the matter takes place and the decision is declared by the chairperson, on whether the councillor may remain in the meeting and participate in deciding the matter in which the councillor has a declarable conflict of interest.
- 9.9 When deciding whether a councillor may participate in the decision making on a matter in which they have a declarable conflict of interest, the other councillors should consider the particular circumstances of the matter including, but not limited to:
- how does the inclusion of the councillor in the deliberation affect the public trust
  - how close or remote is the councillor's relationship to the related part
  - if the declarable conflict of interest relates to a gift or other benefit, how long ago was the gift or benefit received
  - will the benefit or detriment the subject councillor or their related party stands to receive from the decision have major or minor impact on them
  - how does the benefit or detriment the subject councillor stands to receive compare to others in the community
  - how does this compare with similar matters that council has decided and have other councillors with the same or similar interests decided to leave the meeting
  - whether the subject councillor has unique skills, knowledge or expertise that might help make the best decision in the public interest.
- 9.10 If the non-conflicted councillors cannot decide about the declarable conflict of interest of a councillor, they are taken to have decided that the councillor must leave and stay away from the meeting while the non-conflicted councillors discuss and vote on the matter.

- 9.11 A decision about a councillor who has a declarable conflict of interest in a matter applies in relation to the councillor for participating in the decision, and all subsequent decisions, about the same matter unless there is a change to the councillor's personal interests and/or the nature of the matter being discussed. If the non-conflicted councillors decide that the councillor can act in the public interest on the matter, then the councillor may participate in the meeting and be involved in processes occurring outside of a council meeting about the same matter e.g. briefing sessions or workshops.
- 9.12 In making the decision under 9.6 and 9.9, it is irrelevant how the subject councillor intended to vote on the issue or any other issue (if known or suspected).
- 9.13 A councillor does not contravene the above procedures if the councillor participates in a decision under written approval from the Minister.

#### Reporting a suspected conflict of interest

- 10.1 If a councillor at a meeting reasonably believes or suspects that another councillor has a personal interest in a matter that may be a prescribed or declarable conflict of interest, and that councillor is participating in a decision on that matter, the councillor must immediately inform the chairperson of the meeting of their belief or suspicion, and the facts and circumstances that led to their belief or suspicion.
- 10.2 The chairperson then should ask the relevant councillor with the suspected personal interest whether they have any prescribed or declarable conflict of interest in the matter. If the councillor agrees they have a conflict of interest, the councillor must follow the relevant procedures above.
- 10.3 If the councillor believes they do not have a conflict of interest, they must inform the meeting of that belief and their reasons for that belief.
- 10.4 The non-conflicted councillors must then decide whether the councillor has a prescribed conflict of interest, a declarable conflict of interest or that the councillor does not have prescribed or declarable conflict of interest in the matter. If the meeting decides the councillor has a conflict of interest, the councillor must follow the relevant procedures above.
- 10.5 If the councillors cannot reach a majority decision, then they are taken to have determined that the councillor has a declarable conflict of interest.

#### Loss of quorum

- 11.1 In the event where one or more councillors leave a meeting due to a prescribed or declarable conflict of interest in a matter that results in a loss of a quorum for deciding the matter, the council must resolve to:
- delegate the consideration and decision on the matter, pursuant to section 257 of the LGA
  - defer the matter to a later meeting
  - not decide the matter and take no further action in relation to the matter.

- 11.2 All councillors including the conflicted councillors, may participate in deciding to delegate or defer a matter.
- 11.3 The council must not delegate a decision to an entity if the entity, or a majority being at least half of its members, has a prescribed or declarable conflict of interest in the matter.
- 11.4 If the matter cannot be delegated under an Act, the council should seek ministerial approval for the councillors to be able to consider and vote on the matter, subject to any conditions the Minister may impose.

## **Motions**

### Motion to be moved

- 12.1 A councillor is required to 'move' a motion and then another councillor is required to 'second' the motion.
- 12.2 When a motion has been moved and seconded, it will become subject to the control of the council and cannot be withdrawn without the consent of the council meeting.
- 12.3 Other councillors can propose amendments to the motion, which must be voted on before voting on the final motion.
- A motion brought before a meeting of the local government in accordance with the LGA or these standing orders will be received and put to the meeting by the chairperson.
  - The chairperson may require a motion or amendment to a motion to be stated in full or be in writing before permitting it to be received.
  - The chairperson may refuse to accept a motion if it is not within the meeting's jurisdiction and rule a motion out of order if necessary. Any motion that is vague, proposes an unlawful action, is outside the scope of the meeting, is defamatory, vexatious or is unnecessary, may be ruled out of order.
- 12.4 The chairperson may call the notices of motion in the order in which they appear on the agenda. Where no objection is taken to a motion being taken as a formal motion, and the motion is then seconded, the chairperson may put the motion to the vote without discussion and the vote occur.
- 12.5 Not more than one motion or one proposed amendment to a motion may be put before a meeting of a local government at any one time.

### Absence of Mover of Motion

- 13.1 Where a councillor who has given notice of a motion is absent from the meeting of the local government at which the motion is to be considered, the motion may be:
- moved by another councillor at the meeting, or
  - deferred to the next meeting.

### Motion to be seconded

- 14.1 A motion or an amendment to a motion shall not be debated at a meeting of the local government unless or until the motion or the amendment is seconded, with the exception

of procedural motions.

#### Amendment of Motion

- 15.1 An amendment to a motion will be in terms which maintain or further clarify the intent of the original motion and do not contradict the motion.
- 15.2 Where an amendment to a motion is before a meeting of the local government, no other amendment to the motion will be considered until after the first amendment has been voted on.
- 15.3 Where a motion is amended by another motion, the original motion will not be proposed as a subsequent motion to amend that other motion.

#### Speaking to motions and amendments

- 16.1 The mover of a motion or amendment will read it and state that it is so moved but will not speak to it until it is seconded.
- 16.2 The chairperson will manage the debate by allowing the councillor who proposed the motion the option of speaking first on the motion. The chairperson will then call on any other councillors who wish to speak against the motion and then alternatively for and against the motion as available, until all councillors who wish to speak have had the opportunity.
- 16.3 A councillor may make a request to the chairperson for further information before or after the motion or amendment is seconded.
- 16.4 The mover of a motion or amendment has the right to reply. Each councillor will speak no more than once to the same motion or same amendment except as a right of reply. Once the right of reply has been delivered the debate ends.
- 16.5 Each speaker will be restricted to not more than five (5) minutes unless the chairperson rules otherwise.
- 16.6 Where two or more councillors indicate they may wish to speak at the same time, the chairperson will determine who is entitled to priority.
- 16.7 In accordance with section 254H of the *Local Government Regulation 2012* (LGR), if a decision made at the council meeting is inconsistent with a recommendation or advice given to the council by an advisor, the minutes of the meeting must include a statement of the reasons for not adopting the recommendation or advice.

#### Method of taking vote

- 17.1 The chairperson will call for all councillors in favour of the motion to indicate their support. The chairperson will then call for all councillors against the motion to indicate their objection. A councillor may call for a 'division' to ensure their objection to the motion is recorded in the minutes. If a division is taken, the minute secretary will record the names of councillors voting in the affirmative and of those voting in the negative. The chairperson

will declare the result of a vote or a division as soon as it has been determined.

17.2 Councillors have the right to request that their names and how they voted be recorded in the minutes if they request it when voting other than by division.

17.3 Except upon a motion to repeal or amend it, the resolution will not be discussed after the vote has been declared.

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

#### Withdrawing a motion

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

#### Repealing or amending resolutions

19.1 A resolution of the local government may not be amended or repealed unless notice of motion is given in accordance with the requirements of the legislation.

19.2 Councillors present at the meeting at which a motion to repeal or amend a resolution is put, may defer consideration of that motion. The deferral will not be longer than three (3) months.

#### Procedural motions

20.1 A councillor at a meeting of the local government may, during the debate of a matter at the meeting, move the following motions, as a procedural motion without the need for a seconder:

- that the question/motion be now put before the meeting
- that the motion or amendment now before the meeting be adjourned
- that the meeting proceeds to the next item of business
- that the question lie on the table
- a point of order
- a motion of dissent against the chairperson's decision
- that this report/document be tabled
- to suspend the rule requiring that (insert requirement)
- that the meeting stands adjourned.

20.2 A procedural motion, that 'the question be put', may be moved and where the procedural motion is carried, the chairperson will immediately 'put the question to the motion' or amendment to that motion under consideration. Where the procedural motion is lost, debate on the motion or amendment to that motion will resume.

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

- a further motion may be moved to specify a time or date; or
  - the matter about which the debate is to be adjourned, will be included in the business paper for the next meeting.
- 20.4 Where a procedural motion that the meeting proceed to the next item is carried, debate on the matter that is the subject of the motion will cease and may be considered again by the local government on the giving of notice in accordance with the standing orders.
- 20.5 A procedural motion that the question lie on the table, will only be moved where the chairperson or a councillor requires additional information on the matter before the meeting (or the result of some other action of the council or person is required) before the matter may be concluded at the meeting. Where such a procedural motion is passed, the council will proceed with the next matter on the business paper. The motion, that the matter be taken from the table, may be moved at the meeting at which the procedural motion was carried or at any later meeting.
- 20.6 Any councillor may ask the chairperson to decide on a point of order where it is believed that another councillor:
- has failed to comply with proper procedures;
  - is in contravention of the legislation; or
  - is beyond the jurisdiction power of the council meeting.

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

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

- 20.7 A councillor may move a motion of dissent in relation to a ruling of the chairperson on a point of order. Where such motion is moved, further consideration of any matter will be suspended until after a ruling is made. Where a motion of dissent is carried, the matter to which the ruling of the chairperson was made will proceed as though that ruling had not been made. Whereas a result of that ruling the matter was discharged as out of order, it will be restored to the business paper and be dealt with in the normal course of business.
- 20.8 The motion that this report/document be tabled may be used by a councillor to introduce a report or other document to the meeting, only if the report or other document is not otherwise protected under confidentiality or information privacy laws. On tabling the document, it ceases to be a confidential document and is available for public scrutiny.
- 20.9 A procedural motion, 'to suspend the rule requiring that.....', may be made by any

councillor in order to permit some action that otherwise would be prevented by a procedural rule. A motion to suspend a rule will specify the duration of the suspension.

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

### Questions

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

### **Meeting Conduct**

#### Process for dealing with Unsuitable Meeting Conduct

The conduct of a councillor is unsuitable meeting conduct if the conduct happens during a council meeting and contravenes a behavioural standard of the code of conduct for councillors. When dealing with an instance of unsuitable conduct by a councillor in a meeting, the following procedures must be followed:

- 22.1 The chairperson must reasonably believe that unsuitable meeting conduct has been displayed by a councillor at a meeting.
- 22.2 If the chairperson decides the unsuitable meeting conduct has occurred, the chairperson may consider the severity of the conduct and whether the councillor has had any previous warnings for unsuitable meeting conduct issued. If the chairperson decides the conduct is of a serious nature or another warning is unwarranted, proceed to step 23.7.
- 22.3 If the chairperson decides unsuitable meeting conduct has occurred but is of a less serious nature, the chairperson may request the councillor take remedial actions such as:
- ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct;
  - apologising for their conduct;
  - withdrawing their comments.
- 22.4 If the councillor complies with the chairperson's request for remedial action, no further

action is required.

- 22.5 If the councillor fails to comply with the chairperson's request for remedial action, the chairperson may warn the councillor that failing to comply with the request could result in an order being issued.
- 22.6 If the councillor complies with the chairperson's warning and request for remedial action, no further action is required.
- 22.7 If the councillor still continues to fail to comply with the chairperson's request for remedial action or the chairperson decided a warning was not appropriate under 22.3, the chairperson may make one or more of the orders below:
- an order reprimanding the councillor for the conduct
  - an order requiring the councillor to leave the meeting, including any area set aside for the public and stay out for the duration of the meeting.
- 22.8 If the councillor fails to comply with an order to leave and stay away from the meeting, the chairperson can issue an order that the councillor be removed from the meeting.
- 22.9 Following the completion of the meeting, the chairperson must ensure:
- details of any order issued is recorded in the minutes of the meeting
  - if it is the third or more order made within a 12-month period against a councillor, or the councillor has refused to comply with an order issued to leave the meeting, these matters are dealt with at the next meeting of the council and treated as inappropriate conduct
  - the council's chief executive officer (CEO) is advised to ensure details of any order made is updated in the council's councillor conduct register.
- 22.10 Any councillor aggrieved with an order issued by the chairperson can move a motion of dissent for parts 22.1, 22.7 and 22.8 above.

**Note:** Chairpersons of a meeting are carrying out a statutory responsibility under the LGA to manage and lead the meeting. As such, where a chairperson behaves inappropriately in a meeting this involves a serious breach of the trust placed in them as the chairperson of the meeting and may be dealt with as misconduct. The breach can be referred to the Office of the Independent Assessor (OIA) to be dealt with. However, breaches of trust don't arise because councillors disagree with the chairperson's decision or ruling during the meeting.

#### General conduct during meetings

- 23.1 After a meeting of the council has been formally constituted and the business commenced, a councillor will not enter or leave from the meeting without first notifying the chairperson.
- 23.2 Councillors will speak to each other or about each other during the local government meeting by their respective titles ('mayor' or 'councillor'), and when speaking of or addressing officers will call them by their respective official or departmental title and will confine their remarks to the matter under consideration.

- 23.3 No councillor who is speaking will be interrupted except upon a point of order being raised either by the chairperson or by another councillor.
- 23.4 When the chairperson speaks during the process of a debate, the councillor speaking or offering to speak will immediately cease speaking, and each councillor present will observe strict silence so that the chairperson may be heard without interruption.

Meeting process for dealing with suspected inappropriate conduct which has been referred to a local government by the Independent Assessor (IA)

Pursuant to Chapter 5A, Division 5 of the LGA (Referral of conduct to a local government) a referral from the IA of inappropriate conduct or an instance of suspected inappropriate conduct may arise from circumstances under paragraph 22.9 dot point two of this document.

When dealing with an instance of suspected inappropriate conduct which has been referred to a local government by the IA:

- 24.1 The council must be consistent with the local government principle of transparent and accountable decision making in the public interest by dealing with suspected inappropriate conduct in an open meeting of the council. However, where the matter may directly affect the health and safety of the complainant due to the nature of the complaint, the council may resolve to go into closed session under section 254J of the LGR to discuss the allegation.
- 24.2 The subject councillor has a declarable conflict of interest in the matter and is permitted by the council to remain in the meeting during the debate about whether the councillor engaged in the inappropriate conduct and answer questions put to the subject councillor by the chairperson to assist the other councillors in making a decision. This permission to remain in the meeting for the debate is on the condition that the subject councillor must leave the place where the meeting is being held, including any area set aside for the public, during the vote on whether they have committed inappropriate conduct and what, if any, penalty to impose if the councillor is found to have committed inappropriate conduct.
- 24.3 Should the complainant be a councillor, that councillor may have a declarable conflict of interest in the matter and if so, must follow the declarable conflict of interest procedures in section 9. If the complainant councillor who has a declarable conflict of interest, wishes to remain in the meeting during the debate and vote on the matter, the other councillors must decide how to deal with the conflict of interest under section 9. The complainant councillor can be ordered to leave the meeting place or conditions may be applied to allow that councillor to participate in either the debate, the vote or the decision on any disciplinary action to be applied.
- 24.4 The council must debate the issue and decide whether the accused councillor engaged in inappropriate conduct. If the council has lost quorum due to the number of conflicted councillors or another reason, the matter must be delegated consistent with section 257 of the LGA or deferred to another date when a quorum will be present.

- 24.5 If a decision is reached that the accused councillor has engaged in inappropriate conduct, then the councillors must decide what penalty or penalties from the orders detailed in 24.6, if any, to impose on the councillor. In deciding what penalty to impose, the council may consider any previous inappropriate conduct of the councillor and any allegation made in the investigation that was admitted, or not challenged, and that the council is reasonably satisfied is true.
- 24.6 The council may order that no action be taken against the councillor or make one or more of the following:
- an order that the councillor make a public admission that the councillor has engaged in inappropriate conduct
  - an order reprimanding the councillor for the conduct
  - an order that the councillor attend training or counselling to address the councillor's conduct, including at the councillor's expense
  - an order that the councillor be excluded from a stated council meeting
  - an order that the councillor is removed, or must resign, from a position representing the local government, other than the office of councillor, for example that the councillor is ordered to resign from an appointment representing the local government on a state board or committee
  - an order that if the councillor engages in the same type of conduct again, it will be treated as misconduct
  - an order that the councillor reimburse the council for all or some of the costs arising from the councillor's inappropriate conduct.
- 24.7 A local government may not make an order that the councillor attend training/counselling, be suspended from a meeting, be removed or resign from a position or that the same conduct will be treated as misconduct in future, in relation to a person who is no longer a councillor.
- 24.8 The subject councillor, and where relevant, the complainant councillor, must be invited back into the place where the meeting is being held once a decision has been made, and the chairperson must advise them of the details of the decision.
- 24.9 The chairperson must ensure the meeting minutes reflect the resolution made.

#### Disorder

- 25.1 The chairperson may adjourn the meeting of the local government, where disorder arises at a meeting other than by a councillor. On resumption of the meeting, the chairperson will move a motion to be put without debate, to determine whether the meeting will proceed. Where the motion is lost, the chairperson shall declare the meeting closed, and any outstanding matters referred to a future meeting.

#### **Attendance and non-attendance**

##### Attendance of public and the media at meeting

- 26.1 An area shall be made available at the place where any meeting of the local government is to take place for members of the public and representatives of the media to attend the

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

- 26.2 When the local government is sitting in closed session, the public and representatives of the media will be excluded.

#### Closed session

- 27.1 Council and standing committee meetings may resolve that a meeting be closed to the public if its councillors consider it necessary to discuss any of the following matters:
- appointment, dismissal or discipline of the CEO
  - industrial matters affecting employees
  - the council's budget
  - rating concessions
  - legal advice obtained by the council, including legal proceedings that may be taken by or against the council
  - matters that may directly affect the health and safety of an individual or a group of individuals
  - negotiations relating to a commercial matter involving the council for which a public discussion could prejudice the interests of the council
  - negotiations relating to the taking of land by the council under the *Acquisition of Land Act 1967*
  - a matter that the council is required to keep confidential under a law of, or a formal agreement with, the Commonwealth or state.
- 27.2 A council or committee meeting cannot resolve that a meeting be closed where the meeting is informed of a councillor's personal interest in the matter by another person and the eligible councillors at the meeting must decide whether the councillor has a declarable conflict of interest in the matter.
- 27.3 Further, the meeting must not be closed if a quorum is lost due to the number of conflicted councillors who leave the meeting and the council must;
- delegate the matter
  - decide by resolution to defer to a later meeting
  - decide by resolution to take no further action on the matter.

**Note:** None of the above will be considered, discussed, voted on or made during a closed session. If a closed session includes attendance by teleconference, the councillor/s attending by teleconference must maintain confidentiality by ensuring no other person can hear their conversation while in the closed meeting.

- 27.4 To take a matter into a closed session the council must abide by the following:
- pass a resolution to close the meeting
  - the resolution must state the matter to be discussed, an overview of what is to be discussed and why the meeting should be closed while the matter is considered
  - if the matter is known in advance, the agenda should clearly identify that the matter will be considered in closed session, and an explanation of why it is deemed necessary to take the issue into closed session must be stated
  - not make a resolution while in a closed meeting (other than a procedural

resolution).

#### Teleconferencing of meetings

28.1 If a councillor wishes to be absent from a council meeting place during a meeting, the councillor must apply to the chairperson to participate by teleconference, at least three (3) business days prior to the meeting or as soon as practicable once the councillor becomes aware of their intended absence. The chairperson may allow a councillor to participate in a council or committee meeting by teleconference.

28.2 A councillor taking part by teleconference is taken to be present at the meeting if the councillor was simultaneously in audio contact with each other person at the meeting. The attendance of the councillor must be recorded in the minutes as present at the meeting.

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

28.3 In order for councils to manage the safety rules during the COVID-19 pandemic, changes have been added to the LGR that will expire in June 2021.

28.4 These provisions allow the council:

- the option to conduct the entire council meeting via phone, teleconference or video conference
- where possible, must provide streaming or other facilities so that the public can observe or hear the meeting as it is happening, at one of the council's public offices or on the council's website
- chairperson has the option to close the meeting on health and safety grounds to protect participants or observers from risk of exposure to COVID-19.

**For Consideration by Council on 14 October 2020**

Mark Kelleher  
Chief Executive Officer

12/10/2020