



Council Policy

Code of Practice for Council Meeting Procedures



COUNCIL POLICY

 <p>Adelaide Hills COUNCIL</p>	<h2>CODE OF PRACTICE FOR COUNCIL MEETING PROCEDURES</h2>
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Responsible Department(s):	Governance & Performance
Relevant Delegations:	As per the delegations schedule and as included in this Code
Other Relevant Policies:	<p><i>Acknowledgement and Welcome to Country Policy</i> <i>Council Member Conduct Policy</i> <i>Code of Practice for Access to Council and Council Committee and Information or Briefing Sessions Meetings & Documents</i> <i>Petitions Policy</i> <i>Information or Briefing Sessions Policy</i> <i>One Team – Communication Protocols for Council Members and the Administration</i></p>
Relevant Procedure(s):	None
Relevant Legislation:	<p><i>Local Government Act 1999</i> <i>Local Government (Procedures at Meetings) Regulations 2013</i> <i>Electronic Participation in Council Meetings Notice (No 5) 2021</i></p>
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1.2	21/4/2020	Amendments to provide consistency with <i>Electronic Participation in Council Meetings Notice (No 1) 2020</i>	Council - Res 63/20
1.3	22/9/2020	Amendments to provide for the broadcasting of Council meetings	Council – Res 198/20
1.4	31/1/2021	Amendment to provide consistency with the <i>Acknowledgement and Welcome to Country Policy</i>	Council – Res 295/20
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CODE OF PRACTICE FOR COUNCIL MEETING PROCEDURES

1. INTRODUCTION

- 1.0.1 Adelaide Hills Council (AHC) is committed to the principle of honest, open and transparent governance and encourages community participation in the business of Council. The rules and procedures for all meetings of Council and its Committees are outlined in the:
- a. *Local Government Act 1999* (the Act)
 - b. *Local Government (Procedures at Meetings) Regulations 2013* (the Regulations)
- 1.0.2 These Regulations provide that a council may develop and adopt a Code of Practice for its own meetings of Council and Committees that add to, or vary certain aspects of, these provisions. Committees, in this regard, refer to committees established under section 41 of the Act.
- 1.0.3 The purpose of this Code is to establish a consistent approach and provide clear expectations to Council Members, staff, residents, ratepayers and guests for the order of business, procedures and etiquette of AHC Council meetings.
- 1.0.4 This Code supplements the legislation, with any procedures that are required by legislation inserted into the document with reference to the relevant regulation (provided in boxes, with wording in italics). This enables the Code to be read in conjunction with AHC's meeting procedure requirements. Please note that this only applies to procedures at the meeting, rather than those aspects that relate to frequency, timing, and notice of meetings, where reference has only been made to the relevant section within the Act.

1.1. Application of the Code of Practice

- 1.1.1 This Code applies to all ordinary and special meetings of Council.
- 1.1.2 The section 41 committees of Council will be guided by the Act and Regulations as applicable to those committees and any provisions set out in the committee terms of reference.
- 1.1.3 References to the Mayor also include the acting Presiding Member in the Mayor's absence.

1.2. Public Health Emergency: Electronic Participation in Council Meetings

- 1.2.1 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.
- 1.2.2 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.

- 1.2.3 On 5 November 2021 the Minister for Planning and Local Government issued a notice pursuant to section 302B of the Act (Notice No 5) varying or suspending the operation of the specified provisions of the Act as set out in Schedule 1 to Notice No 5. Notice No 5 commenced operation on 11 November 2021 and revoked Notice No. 1 issued on 30 March 2020.
- 1.2.4 For the period Notice No 5 has effect (as provided for in Notice No 5), 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.
- 1.2.5 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.
- 1.2.6 On 23 June 2020, in recognition of the easing of the COVID-19 restrictions in South Australia, Council resolved (108/20) to delegate to the CEO to determine the 'place' of Council meetings (i.e. virtual with participation by electronic means or physical with Members in the Council Chamber).
- 1.2.7 On 15 September 2020, Council resolved (198/20) to commence broadcasting the proceedings of Council meetings. For clarity, where meetings are being conducted by electronic means (under a Notice No 5 scenario) meetings will be livestreamed as required by legislation and where meetings are physically in the Chamber the meetings will be broadcast in accordance with the Council resolution.

1.3. Guiding Principles

- 1.3.1 Regulation 4 of the Regulations prescribes guiding principles that should be applied with respect to the procedures to be observed at a meeting of a council of council committee.
- 1.3.2 In determining a matter of meeting procedure, the Mayor should consider the extent to which the proposed action upholds the following principles:

Legislation – Regulation 4
<p><i>The following principles (the Guiding Principles) should be applied with respect to the procedures to be observed at a meeting of a Council or Council Committee.</i></p> <p>a) <i>procedures should be fair and contribute to open, transparent and informed decision making.</i></p> <p>b) <i>procedures should encourage appropriate community participation in the affairs of the Council.</i></p> <p>c) <i>procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting.</i></p> <p>d) <i>procedures should be sufficiently certain to give the community and decision makers confidence in the deliberations undertaken at the meeting.</i></p>

- 1.3.3 These Guiding Principles underpin the details documented in this Code of Practice.

1.4. Suspension of other Inconsistent Provisions

- 1.4.1 To the extent that any other discretionary provision 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.
- 1.4.2 In circumstances where a provision is suspended under this paragraph, the Mayor may give directions to a Member of the Council in respect of an alternative method of compliance with the suspended provision.
- 1.4.3 Any Member who disagrees with a direction of the Mayor 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.

1.5. Definitions associated with Notice No 5

- 1.5.1 *Act* means the *Local Government Act 1999*.
- 1.5.2 *electronic means* includes a telephone, computer or other electronic device used for communication.
- 1.5.3 *regulations* means the *Local Government (Procedures at Meetings) Regulations 2013*.
- 1.5.4 *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.

2. OPERATING PROCEDURES – BEFORE THE MEETING

2.1. Calling Meetings

Ordinary Meetings

- 2.1.1 Section 81 of the Act prescribes the legislative requirements for the frequency and timing of ordinary council meetings.
- 2.1.2 The schedules for Ordinary Council Meetings are resolved in advance and are maintained on the Council website.

Special Meetings

- 2.1.3 Section 82 of the Act prescribes the legislative requirements for the calling of special meetings of council.
- 2.1.4 Details of special meetings of Council will be placed on the Council website as soon as possible after the decision to call the meeting.

2.2. Notice and Agendas for Meetings

Ordinary Meetings

- 2.2.1 Sections 83 and 84 of the Act prescribe the legislative requirements for providing Council Members and the public with notice for Council meetings.
- 2.2.2 At least three (3) clear days¹ before the Council meeting the Chief Executive Officer (CEO) must give written notice of the meeting to all Council Members setting out the date, time and place of the meeting.
- 2.2.3 The notice must contain or be accompanied by the agenda² and, as far as practicable, the documents and reports that are to be considered at the meeting. Council's practice, whenever possible, is to provide the notice four (4) clear days before the meeting (i.e. by 5.00pm Thursday for a Tuesday evening meeting).
- 2.2.4 Each Council Member may indicate their preference for delivery of the notice of meeting, agenda and reports for all Council meetings. Any changes to the delivery arrangements must be requested in writing.
- 2.2.5 For members of the public, a copy of the notice of meeting, agenda and reports (with the exception of confidential items) will be displayed for viewing on Council's website www.ahc.sa.gov.au and on public display at the principal office as soon as practicable after the time when the document or report is supplied to members of the Council³.
- 2.2.6 The notice will remain on the website and on public display until the completion of the meeting. In practice these notices remain available indefinitely.

¹ 'clear days' means that the time between the giving of the notice and the day of the meeting, but excluding both the day on which the notice was given and the day of the meeting, (e.g. notice is given on a Thursday for a following Monday meeting, the clear days are Friday, Saturday and Sunday). If a notice is given after 5 p.m. on a day, the notice will be taken to have been given on the next day

² 'agenda' under s4(1) of the Act means a list of items of business to be considered in a meeting. For clarity, reports and documents that accompany those business items are not considered to be the 'agenda'.

³ For more information on public access to the Council agenda, please see the *Code of Practice for Access to Council and Council Committee and Designated Informal Gatherings Meetings & Documents*

Special Meetings

- 2.2.7 For Special Meetings, the CEO must ensure that each Member of the Council is given at least four (4) hours' notice of a special meeting of the Council.
- 2.2.8 Notices of special meetings will be distributed by email to the Council-provided email address for each Member, and will be displayed on Council's website for viewing by members of the public.

2.3. Public Access to Meetings

- 2.3.1 Council has adopted a *Code of Practice for Access to Council, Council Committee and Information or Briefing Sessions Meetings & Documents* which outlines the arrangements for public access to Council meetings.

2.4. Questions for Clarification Prior to the Meetings

- 2.4.1 To facilitate efficient and effective meetings, Council Members are encouraged to contact the CEO or nominated delegate prior to Council meetings to clarify matters appearing on the agenda. For Administration Reports, the nominated delegate is the Council Officer whose name is listed as the Responsible Officer.

3. OPERATING PROCEDURES – THE ORDER OF BUSINESS

3.1. Commencement of Meetings and Quorums

Legislation – Regulation 7

- (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 officer indicates that a quorum will not be present at a meeting, the chief executive officer 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 officer, will adjourn the meeting to a specified day and time.*
- (4) *If a meeting is adjourned for want of a quorum, the chief executive officer 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 officer must-*
 - (a) *give notice of the adjourned meeting to each member setting out the date, time and place of the meeting; and*
 - (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.*

- 3.1.1 A quorum for Council is determined under s85(1) of the Act 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'. For the purposes of s85(1) the members of council in office used to calculate the quorum does not include a member of council who is suspended from office or a member of council who has taken a leave of absence under s55 (to contest a state election) – see s85(2).
- 3.1.2 In the normal course of events, AHC's quorum is seven (7) Council Members (this includes the Mayor).
- 3.1.3 In accordance with Notice No 5, s85 of the Act has been amended in that 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.
- 3.1.4 Further it is condition under Notice No 5, that 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 but 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.

3.1.5 In accordance with Notice No 5, a quorum is taken to be present even if one or more Council Members constituting the quorum is present by electronic means.

3.2. Order of Business

3.2.1 The order of business for Council meetings will generally be in accordance with the attached agenda template – refer **Appendix A**. However the Mayor at their own initiative or at the request of a Member of Council may bring forward items, with the leave of the meeting, for debate and resolution where:

- a. a large contingent of interested parties is present in the gallery
- b. contractors or consultants are present to make presentations; or
- c. it may otherwise be considered expedient or appropriate.

3.3. Length of Council Meetings

3.3.1 Council meetings will commence upon a quorum being present at the time set down in the Notice of Meeting.

3.3.2 Council meetings will conclude at or before 10.00pm, or 3.5 hours after the commencement, whichever is the earlier, unless the meeting formally resolves on each specific occasion to continue beyond that time.

3.3.3 Where the business of a meeting is unlikely to be completed before 10.00pm, or within 3.5 hours of the commencement, a motion is to be put to the meeting whether to continue or adjourn to another date and time. Extensions of the meeting will normally be in 30 minute blocks.

3.3.4 During the course of a Council meeting, a motion may be put to adjourn the meeting for a specified period (e.g. for 10 minutes).

3.4. Opening Statement

3.4.1 After calling a Council meeting to order, the meeting shall be opened with an Acknowledgement of Country consistent with the Council's *Acknowledgement and Welcome to Country Policy*, as amended from time to time.

3.5. Attendees, Apologies and Absences

3.5.1 If a Member expects to be late or unable to attend a meeting, the Governance & Performance Department (governanceandperformance@ahc.sa.gov.au) is to be advised prior to the commencement of the meeting or as soon as possible.

3.5.2 If a Member intends to seek a leave of absence, the request must be made in writing via the Governance & Performance Department, specifying the period of leave that is being requested, prior to the commencement of the meeting.

3.5.3 A leave of absence will only be granted by a resolution of the Council and will involve leave from all Council duties (including roles on council committees, panels and advisory groups).

- 3.5.4 Where a Member is intending to be interstate, overseas or otherwise not able to attend to the full range of duties, they should seek a leave of absence at the preceding meeting.
- 3.5.5 Where a Member recommences duties prior to the expiry of the approved period, the leave of absence will cease.
- 3.5.6 A leave of absence will not be retrospective.
- 3.5.7 All apologies and leaves of absence will be listed in the Minutes for each Council meeting that it relates to.
- 3.5.8 If no apology has been received by the commencement of the meeting and there is no leave of absence and the Member is not present, they will be recorded in the Minutes as being absent.
- 3.5.9 If a Member arrives after the meeting commences, the time of arrival will be included in the Minutes.
- 3.5.10 If a Member has to leave a meeting (for longer than a comfort break), the Member should draw their impending departure to the attention of the Mayor to ensure that the presence of a quorum can be monitored.
- 3.5.11 Council Officers who address the Council meeting will be recorded in the Minutes as being in attendance.
- 3.5.12 The number of members of the public or representation of any other organisations will not be recorded in the minutes, unless presenting on a specific item in the agenda.

3.6. Confirmation of Minutes

Legislation – Regulation 8
<p>(1) <i>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</i></p> <p>(2) <i>No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.</i></p> <p>(3) <i>On the confirmation of the minutes, the presiding member will-</i></p> <p style="padding-left: 40px;"><i>(a) initial each page of the minutes, which pages are to be consecutively numbered; and</i></p> <p style="padding-left: 40px;"><i>(b) place his or her signature and the date of confirmation at the foot of the last page of the minutes.</i></p>

- 3.6.1 The Minutes included in an Ordinary meeting agenda will be those unconfirmed minutes of any previous meetings less any information that is subject to an order under section 90 of the Act.
- 3.6.2 In accordance with Notice No 5, on confirmation of the minutes the Mayor may initial or sign the full (including confidential)_minutes in hardcopy or electronically.

3.7. Declaration of Interest

- 3.7.1 The provisions in relation to a Council Member's interests are set out in sections 73, 74, 75 and 75A of the Act. Section 74 – *Dealing with material conflicts of interest* has been amended to recognise electronic participation in Council meetings by a Member of Council.
- 3.7.2 It is a Council Member's responsibility to ensure they are aware of, and understand, the provisions of sections 73, 74, 75 and 75A of the Act in relation to declarations of interest.
- 3.7.3 A Council Member who has an interest in a matter, as defined under sections 73 and 75 of the Act, must disclose the interest to the Council in accordance with the provisions of sections 74 and 75A of the Act. Disclosures will be recorded in the Minutes in accordance with the relevant provisions of the Act and Regulations.
- 3.7.4 Council Members may seek advice about a possible interest before a meeting by contacting the CEO or the Governance & Performance Department. If necessary, the Governance & Performance Department will facilitate the Member to contact the Council's lawyers directly for advice, at Council's expense.

3.8. Mayor's Opening Remarks

- 3.8.1 At each ordinary Council, the Mayor may present opening remarks which will be generally related to matters regarding the conduct of the meeting (e.g. acknowledging members of the gallery, advising break times, proposals to reorder the agenda) or to acknowledge a significant civic, cultural or other event. A brief summary of these remarks will be minuted.

3.9. Questions Adjourned/Lying on the Table

- 3.9.1 Sometimes 'questions'⁴ being debated in the Chamber may need to be adjourned for reasons such as required information not being available at that time. In these cases a 'formal motion'⁵ can be resolved to adjourn the matter for a later time.

Questions Adjourned

Legislation – Regulation 19
<p>(1) <i>If a formal motion for a substantive motion to be adjourned is carried:</i></p> <p>(a) <i>The adjournment may either be to a later hour of the same day, to another day, or to another place; and</i></p> <p>(b) <i>The debate, will, on resumption, continue at the point at which it was adjourned.</i></p> <p>(2) <i>If debate was 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 adjourned.</i></p> <p>(3) <i>Business adjourned from a previous meeting must be dealt with before any new business at a subsequent meeting</i></p>

⁴ Regulation 12 (14) refers to a motion that has been moved and seconded as a 'question'.

⁵ For more information on formal motions see clause 4.3 of this Code.

- 3.9.2 The resolution to adjourn a question will nominate the time and place that debate on the question will continue and therefore they do not require a resolution for debate to resume (at the point of interruption) however these questions must be considered prior to any new business being dealt with.

Questions Lying on the Table

- 3.9.3 Questions Lying on the Table require a resolution for the question to be retrieved (and debate resumed at the point of interruption).

Legislation – Regulation 12
<i>(19) Any question that lies on the table as a result of a successful formal motion under subregulation (14)(c) lapses at the next general election.</i>
<i>(20) The chief executive must report on each question that lapses under subregulation (19) to the council at the first ordinary meeting of the council after the general election.</i>

3.10. Petitions

- 3.10.1 Petitions may be submitted to Council in line with Council's *Petition Policy*. If the petition is a compliant petition for the purposes of the Act and the *Petition Policy*, it will be placed on the agenda for the next scheduled meeting of Council.
- 3.10.2 The Council agenda will contain a report regarding petition(s) received. The report will contain the nature of the request or submission, the name and locality of the Principal Signatory, a brief statement as to the nature of the request or submissions, the number of signatories and an Officer's Response providing a brief commentary on the relationship/relevance of the petition topic to Council services/activities/plans/strategies/ resolutions and options available to Council to address the petition request. Further the report will recommend, as a minimum, that:
- a. The report be received and noted; and
 - b. The CEO advise the principal signatory of the Council's noting of the petition and of any resolutions relating to the matter
- 3.10.3 A full copy of the petition will not be included in the agenda to protect the privacy of individuals. Council Members may request a copy of the petition and it is the Members' responsibility not to distribute or publish a copy of the full petition.
- 3.10.4 If, in consideration of a petition, a Council Member determines to move a Motion Without Notice, the Council will deal with the motion at that point in the agenda, subject to the compliance with the applicable requirements of legislation/policy.

3.11. Deputations

- 3.11.1 A deputation is a formal opportunity to address the Council on a particular matter during a meeting.

Legislation – Regulation 11
<p><i>Deputation means a person or group of persons who wish to appear personally before a council or council committee in order to address the council or committee (as the case may be) on a particular matter.</i></p> <p>(1) <i>A person or persons wishing to appear as a deputation at a meeting must deliver a written request to the council.</i></p> <p>(2) <i>The chief executive officer must transmit a request received under subregulation (1) to the presiding member.</i></p>

Making a Deputation Request

- 3.11.2 A person or persons wishing to appear as a deputation at a Council meeting must forward a written request to the CEO, indicating the reasons for the deputation. Deputations will be limited ordinarily to a maximum of two (2) per Ordinary Council meeting.
- 3.11.3 In the normal course of events, the deputation request must be received no less than seven (7) clear days prior to the Council meeting, for inclusion in the Agenda. Details of Council meeting dates are contained on the Council website.
- 3.11.4 If however the matter relates to an item of business on the Agenda and there are not two (2) deputations already approved for the meeting, the Deputation Request Form may be lodged up to 5.00pm on the day prior to the Council meeting.
- 3.11.5 A request to make a deputation should be made by submitting a *Deputation Request Form*, which is available on Council's website. The Form, which must be completed in full, includes an acknowledgment of the deputation obligations and procedures to be observed at the meeting.
- 3.11.6 A deputation may comprise one (1) or a number of persons. When a deputation appears at a meeting up to two (2) members of the deputation (e.g. deputees) will be allowed to speak, and to reply to questions from Council Members.
- 3.11.7 Should a deputee be speaking on behalf of an association, organisation or other body, they may be required to provide a copy of the constitution and rules of that organisation, association or other body prior to the deputee's address.

Processing a Deputation Request

Legislation – Regulation 11
<p>(3) <i>The presiding member may refuse to allow the deputation to appear at a meeting.</i></p>

- 3.11.8 Whether or not a deputation may appear is to be determined on a case-by-case basis by the Mayor. In determining whether a deputation request is granted the following considerations will be taken into account:

- a. the subject matter of the proposed deputation;
 - b. relevance to the Council agenda nominated – and if not, relevance to the Council’s powers or purpose;
 - c. the integrity of the request (i.e. whether it is considered to be frivolous and/or vexatious);
 - d. the size and extent of the agenda for the particular meeting; and
 - e. the number of times the deputee has addressed Council (either in a deputation or public forum) on the subject matter or a similar subject matter.
- 3.11.9 Upon the expiration of seven (7) clear days prior to the Council meeting, the Mayor will consider the Deputation requests received and determine, as per clause 3.11.8, the requests that will be granted.
- 3.11.10 Notwithstanding clause 3.11.2, the Mayor has the delegation to accept one (1) additional deputation if it is determined that the matter of sufficient importance and urgency that it must be heard at that meeting.

Legislation – Regulation 11 (cont.)

<i>(4) The chief executive officer must take reasonable steps to ensure that the person or persons who requested a deputation are informed of the outcome of the request.</i>

- 3.11.11 Written notification will be forwarded to the person who made the request for a deputation notifying them of the outcome of the deputation request. If approved they will be notified of the date and time of the meeting at which the deputation will be heard and the method by which the person or persons are to appear at the meeting. For deputation requests received in accordance with clause 3.11.4, phone/email contact will be made with the deputee.

Legislation – Regulation 11 (cont.)

<i>(5) 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).</i>

<i>(6) The council or council committee may resolve to allow a deputation to appear despite a contrary ruling by the presiding member.</i>

<i>(7) A council may refer the hearing of a deputation to a council committee.</i>

Presenting a Deputation at a Council Meeting

- 3.11.12 If the deputee wishes for notes or other documents are to be distributed for the deputation, these are to be provided to the Minute Secretary up to 5.00pm on the day prior to the Council meeting to distribute electronically to the Council Members. The deputee will remain legally liable for the content of any documents distributed.
- 3.11.13 The deputee(s) microphone will be unmuted and they will be invited by the Mayor to make the deputation on the topic or issue which has been nominated. The deputee must state their name and locality, which will be recorded in the minutes to the meeting (which is a public document).

- 3.11.14 Powerpoint (or similar) presentations are to be lodged up to 5.00pm on the day prior to the Council meeting for the purposes of confirming software compatibility and content suitability. The depute will remain legally liable for the content of any presentation.
- 3.11.15 Deputies may address questions to the Council. The Mayor will determine if an answer is to be provided.
- 3.11.16 In the interests of fairness, each deputation is to be no longer than ten (10) minutes in duration. Deputies may address questions to the Council which must be accommodated within the 10 minute allocation. The Mayor will determine if an answer is to be provided to any questions asked.
- 3.11.17 Following the Deputation, a maximum of five (5) minutes will be allocated for Members to direct questions to the depute(s) if required. Members of Council may ask questions of the depute(s) presenting. Care should be exercised in framing questions to ensure they clearly relate to the subject of the deputation. The Mayor will use their best endeavours to manage this process fairly.
- 3.11.18 Notes or presentation material provided as part of the deputation will be referenced in the minutes of the meeting.

Deputation Conduct

- 3.11.19 All deputations are to be conducted in an orderly manner. Deputations should reflect levels of formality appropriate to the nature and scope of the Council meeting. Any comments that may amount to a criticism of individual Council Members or Officers must not be made during the depute's address. If this conduct occurs the Mayor will warn the depute, if the conduct is repeated the deputation will be ceased. Any such criticism or comments should properly be directed in writing to the CEO outside of the meeting.
- 3.11.20 Council meetings are also open to the public including being livestreamed/broadcast and there is unlikely to be any legal protection or other privilege attached to any statements made during a deputation in this forum. This means that anything said during the depute's address is subject to the normal laws of defamation. Consequently all deputies should take care in the statements they make and how they make their address.
- 3.11.21 An 'Information Sheet – Deputations and Public Forums – How to Address Council or Council Committees on Issues of Concern' provides a summary of the above requirements and is available on the Council website.

3.12. Public Forums

- 3.12.1 For the effective duration of the *Electronic Participation in Council Meetings Notice (No 5) 2021*, Council will not conduct a Public Forum during the Council meeting where the meeting is being conducted by electronic means.
- 3.12.2 However if the meeting is being conducted physically in the Council Chamber, the Public Forum will be conducted in the following manner:
- 3.12.3 The Public Forum is a less formal opportunity to address Council on a particular matter during the meeting.

- 3.12.4 The guidelines which apply to Public Forum are:
- a. The total time allocation for the Public Forum will be ten (10) minutes, except with leave from the Council, in which case the time allocation can be increased.
 - b. Each speaker in the Public Forum will have no longer than five (5) minutes (including questions), except with leave from the Council.
 - c. If a large number of presentations have been requested, with leave from the Council, the time allocation of five (5) minutes per speaker may be reduced.
 - d. People wishing to speak in the public forum (speakers) must advise the Mayor of their intention at the beginning of this section of the meeting. Those who do not flag their desire to speak at this time will only be permitted to speak at the discretion of the Mayor.
 - e. Where an intending speaker has made a deputation at the same meeting of Council they will not be permitted to speak in the public forum on the same or similar subject matter at that meeting.
 - f. Upon being requested to come forward to address the Council, the Mayor will ask the speaker to state their name and locality of residence and the subject matter they wish to speak on.
 - g. These details will be recorded in the minutes of the meeting (which is a public document).
 - h. The speaker will then wait for the Mayor to invite them to commence their speech.
 - i. The speaker may address questions to the Council which must be accommodated within the five (5) minute allocation. The Mayor will determine if an answer is to be provided to any questions asked.
 - j. Where a number of speakers are speaking on the same topic, the Mayor may encourage subsequent speakers to avoid repeating previous points and to focus on new points.
 - k. Members may ask questions of all speakers appearing relating to the subject of their presentation.

Public Forum Conduct

- 3.12.5 All public forum presentations are to be conducted in an orderly manner. These should reflect levels of formality appropriate to the nature and scope of the Council meeting. Any comments that may amount to a criticism of individual Council Members or Officers must not be made during the presentation. If this conduct occurs, the Mayor will warn the depute, if the conduct is repeated the deputation will be ceased. Any such criticism or comments should properly be directed in writing to the CEO outside of the meeting.
- 3.12.6 Council meetings are also open to the public including being livestreamed/broadcast and there is unlikely to be any legal protection or other privilege attached to any statements made during a presentation in this forum. This means that anything said during the speaker's address is subject to the normal laws of defamation. Consequently all speakers should take care in the statements they make and how they make their address.

3.13. Presentations

- 3.13.1 Presentations are defined as an opportunity for an organisation, community group, Council Officer(s) or member of the public to address Council to provide information relevant to the Council at the invitation of Council.
- 3.13.2 Such presentations do not include deputations or representations under the *Planning, Development and Infrastructure Act 2016*.
- 3.13.3 The duration of each presentation is to be no longer than fifteen (15) minutes plus five (5) minutes for questions, if required. There is to be a limit of two (2) presentations per scheduled meeting, except with the leave of the meeting.
- 3.13.4 If notes or other documents are to be distributed for the presentation, these are to be provided to the Minute Secretary up to 5.00pm on the day prior to the Council meeting to distribute electronically to the Council members..
- 3.13.5 Powerpoint (or similar) presentations are to be lodged up to 5.00pm on the day prior to the Council meeting for the purposes of confirming software compatibility and content suitability. The presenter will remain legally liable for the content of any presentation.
- 3.13.6 Notes or presentation material referred to as part of the presentation will be referenced in the minutes of the meeting.

3.14. Questions on Notice

Legislation – Regulation 9
<p>(1) <i>A member may ask a question on notice by giving the chief executive officer written notice of the question at least 7 clear days before the date of the meeting at which the question is to be asked.</i></p> <p>(2) <i>If notice of a question is given under subregulation (1) -</i></p> <p style="padding-left: 40px;">(a) <i>the chief executive officer must ensure that the question is placed on the agenda for the meeting at which the question is to be asked; and</i></p> <p style="padding-left: 40px;">(b) <i>the question and the reply must be entered in the minutes of the relevant meeting.</i></p> <p>(6) <i>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.</i></p>

- 3.14.1 When sending the questions to the CEO, the Member asking the question should provide a brief history, context, or reason why the question is being asked. This preamble will be included in the agenda with the question(s).
- 3.14.2 On receipt of the questions the CEO will forward the questions to Mayor. The Mayor will inform the CEO on one of the following processes:
- Request that the CEO (or delegate) respond to the questions; or
 - Respond to the questions themselves; or
 - Make a determination at the nominated meeting regarding the response.

Process 1

- 3.14.3 If the Mayor opts that the CEO (or delegate) responds to the questions and there is sufficient time to consider and respond to the questions, the questions and answers

will appear in the Agenda and would then be replicated in the minutes in accordance with Regulation 9.

- 3.14.4 If the referral to the CEO (or delegate) does not allow for sufficient time to consider and respond to the questions and include the answers in the agenda, the CEO (or delegate) will arrange for answers to be tabled at the relevant meeting. The questions and answers will be included in the minutes in accordance with Regulation 9.

OR

Process 2

- 3.14.5 If the Mayor opts to respond to the questions they can either:
- Provide the response to the CEO and, if these answers are provided in sufficient time, the questions and answers will be included in the Agenda and would be replicated in the minutes in accordance with Regulation 9.
 - Table at the meeting the written responses to the questions on the night of the nominated meeting and the questions and answers will be included in the minutes in accordance with Regulation 9.

OR

Process 3

- 3.14.6 If the Mayor opts to make a determination at the nominated meeting regarding a response, the questions will appear in the Agenda and these questions and the answers will be included in the minutes in accordance with Regulation 9.
- 3.14.7 This could include the Mayor answering the questions, referring it to the CEO (or delegate) for a response on the night or rule not to accept the questions in accordance with Regulation 9(6).
- 3.14.8 If a Mayor makes a determination that a question shall not be answered as per Regulation 9(6) the question and the reason for the determination shall be stated and recorded in the minutes.

3.15. Motions on Notice

Legislation – Regulation 12
<p>(1) <i>A member may bring forward any business in the form of a written notice of motion.</i></p> <p>(2) <i>The notice of motion must be given to the chief executive officer at least 7 clear days before the date of the meeting at which the motion is to be moved.</i></p> <p>(3) <i>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.</i></p> <p>(4) <i>If a motion under subregulation (3) is lost, a motion to the same effect cannot be brought-</i></p> <p style="padding-left: 20px;"><i>(a) until after the expiration of 12 months; or</i></p> <p style="padding-left: 20px;"><i>(b) until after the next general election, whichever is sooner</i></p>

- 3.15.1 Prior to lodging a motion, Members should liaise with the CEO or nominated delegates on the content of the proposed motion to explore options and implications.

3.15.2 In circumstances where a Motion on Notice has been placed on the Agenda and the Member who placed the Motion on Notice is not in attendance at the meeting, another Member may move the motion in their stead.

3.15.3 The following are desirable characteristics when framing a motion⁶:

- a. *Form* – a motion should be in a positive, affirmative form. It should not be in a negative form, unless it achieves some specific advantage or value;
- b. *Content* – a motion should be complete and plain, so that a resultant resolution when read in the future, identifies with certainty its object and substance;
- c. *Wording* – It should be in precise and definite language. Its intention and import should be clear; and
- d. *Drafting* – a motion should be framed and phrased in a way to enable persons to vote in favour of or against the proposal, and thus facilitate the ability of the meeting to make a decision,

3.15.4 The attached proforma should be used when framing Notices of Motion – refer **Appendix B**.

3.16. Administration Reports

3.16.1 Each Council agenda includes report items prepared by the Council Administration, which may include recommendations. These recommendations are not a motion, and have no status until moved by a Member. Alternatively Members may move a completely different motion.

3.16.2 Administration Reports to Council will be prepared using the standard format – refer **Appendix C**.

3.16.3 Administration Reports in the Order of Business will be grouped into the following categories:

- a. **Decision Items** – these are agenda items that are seeking the Council's resolution in relation to a course of action in relation to the matter; and
- b. **Information Items** – these are agenda items that are informing the Council of the status of the matter. Generally, the recommendation in these reports will be for the receiving and noting of the item.

3.16.4 Where additional information is required this may be included as attachments to the report which will be inserted in the agenda papers immediately following the report.

3.16.5 In order to contain the number of reports going before Council, report writers should consider any subsequent steps and wherever practical include them in the initial report and set of recommendations. Examples of these subsequent steps that should be included in the initial report include:

- a. the authorisation for the Mayor and/or CEO to sign and seal documents
- b. authorising the Chief Executive Officer or relevant Director to make minor amendments to an associated document
- c. if a working party or sub-committee is required, to indicate that in the report and include a recommendation seeking nominations for Membership of the working party, etc.

⁶ A. D. Lang (2015) *Horsley's Meetings procedure, Law and Practice* (7th ed.), 119.

- d. indicating a price or value range within which a delegated staff member can negotiate rather than a single fixed price.
- 3.16.6 Reports are to be prepared so as to communicate the required information in a clear and succinct way. The information presented should be impartial, balanced and evidence-based (where reasonably possible).
- 3.16.7 As per clause 2.4, to facilitate efficient and effective meetings, Council Members are encouraged to contact the CEO or nominated delegate as early as possible prior to Council meetings to clarify matters appearing on the agenda. The nominated delegate is the Council Officer whose name is listed as the Responsible Officer.
- 3.16.8 In the normal course of business, report authors will not introduce their report unless requested by the Mayor. However the Mayor will ask the author whether there are any updates to be provided based on queries received or recent events since agenda distribution.
- 3.16.9 Where practicable, Council Officers may utilise online meeting functionality to provide information to the Council meeting rather than physically attending the meeting.

Status Report – Council and Committee Resolutions Update

- 3.16.10 A report will be provided at each Council meeting for noting, setting out the status of each resolution from Council meetings until the item is completed.

3.17. Questions Without Notice

Legislation – Regulation 9
<i>(3) A member may ask a question without notice at a meeting.</i>
<i>(4) The presiding member may allow the reply to a question without notice to be given at the next meeting.</i>
<i>(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.</i>
<i>(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.</i>

- 3.17.1 To facilitate the efficiency of meetings, Members are encouraged to use the availability of the CEO or nominated delegates prior to the meetings to clarify issues of concern.
- 3.17.2 Questions Without Notice can be asked at a meeting and the Mayor has the discretion to accept the questions in accordance with Regulation 9(6).
- 3.17.3 If the question is accepted, the Mayor will make the determination to choose to answer the questions or refer them to the CEO (or delegate) for a response. Where an answer is not possible at the meeting, the questions may be taken “on notice” and a response provided by email within 14 days.

- 3.17.4 In accordance with Regulation 9(5) Questions Without Notice and the reply will not be included in the minutes unless the Council meeting resolves to do so.

3.18. Motions Without Notice

Legislation – Regulation 12
<p>(5) <i>Subject to the Act and these regulations, a Member may also bring forward any business by way of a motion without notice.</i></p> <p>(6) <i>The presiding Member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion.</i></p> <p>(7) <i>The presiding member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the council or council committee (as the case may be)</i></p>

- 3.18.1 As they have not been foreshadowed to Members or the broader community and do not have an accompanying analysis (as do Motions On Notice and Administration Reports), it is not considered to be in the interests of good governance practice, and is a denial of natural justice, to consider Motions Without Notice other than those that meet the following criteria.

- 3.18.2 In general, Motions Without Notice should be restricted to:

- a. A request that a report on a particular topic be presented at a future meeting;
- b. A simple matter, requiring little information to be considered, and the impact of which on Council is deemed to be minor;
- c. A matter arising from an item before Council that has been considered in detail at that meeting, and where a Motion Without Notice is seen as the best way to resolve or progress the matter in a timely manner; and/or
- d. A matter of such urgency and importance that failure to consider it at the meeting would be likely to result in detriment to the Council or community.

- 3.18.3 Wherever practicable, Members wishing to move a Motion Without Notice (including a motion different from a report recommendation) are encouraged to make available a written copy of their motion to assist the Mayor in the conduct of the meeting and in the subsequent preparation of the minutes of the meeting.

- 3.18.4 Following the moving of a Motion Without Notice and prior to the seeking of a seconder, the Mayor will seek advice from the CEO or nominated delegate regarding the perceived implications of the motion.

- 3.18.5 The Mayor may refuse to accept the Motion Without Notice if, after taking into account the Guiding Principles (Regulation 4 and clause 1.2 of this Code), it is considered that the motion should be dealt with by way of a written Motion On Notice.

- 3.18.6 Any Motions Without Notice which, in the opinion of the Mayor, require action involving the expenditure of unbudgeted resources should be on the basis of a Motion On Notice.

3.19. Council Member Reports

- 3.19.1 At each ordinary Council meeting, Council Members may present a written or verbal report detailing those functions or activities on the business of Council but not the prescribed meetings or advisory groups of Council.
- 3.19.2 Council Members are encouraged to submit their written reports seven (7) clear business days before the date of the meeting to enable the report to be incorporated into the Agenda.
- 3.19.3 Reports will be recorded in the minutes in summary form and will not include commentary on the activities or functions reported or the attendance of other Council Members or the personal details of residents/ratepayers.

3.20. Reports of Members/Officers as Council Representatives on External Organisations

- 3.20.1 At each Ordinary Council meeting, Members or Officers who are appointed as Council representatives on external organisations (e.g. regional subsidiaries) may provide a verbal or written report on their involvement in activities associated with that organisation.
- 3.20.2 Members and Officers are encouraged to submit their written reports seven (7) clear days before the date of the meeting to enable the report to be incorporated into the Agenda.

3.21. CEO Report

- 3.21.1 At each ordinary Council meeting, the CEO will present a verbal report detailing the status of key activities and initiatives.

3.22. Reports of Committees

- 3.22.1 Committees will report to Council in accordance with the reporting requirements detailed in their respective terms of reference.
- 3.22.2 Council Committees will report to Council at the next Council meeting following the Committee meeting. The form of report will be by way of a verbal report from the Presiding Member (or other Member of the Committee should the Presiding Member not being present) in support of the minutes of the Committee meeting.
- 3.22.3 A copy of these minutes will be included in the Agenda of the next Council meeting. All recommendations from the Committee will be considered by Council in the form of an Administration Report.
- 3.22.3 Recommendations to Council arising from a Committee meeting will either be the subject of a separate Administration Report or consolidated in a report under this section accompanying the Committee minutes.

3.23. Confidential Items

- 3.23.1 Under the provisions of Notice No 5, Council meetings will be live streamed for the public to view the proceedings except where the Council believes it is necessary in the broader community interest to exclude the public from the discussion (and, if necessary, decision) of a particular matter.

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- 3.23.2 Before Council orders that the public be excluded to enable the receipt, discussion and consideration of a particular matter, the meeting must, in public, formally determine if this is necessary and appropriate, and then pass a resolution to exclude the public while dealing with that particular matter.
- 3.23.3 This means that all members of the public (including staff), unless exempted by being named in the resolution as entitled to remain, will not be able to view or listen to the meeting proceedings. For the operation of section 90(2) of the Act a member of the public does not include a Member of Council.
- 3.23.4 Once discussion on that particular matter is concluded, the public will be permitted to re-enter the meeting. If there is a further matter that needs to be considered in confidence it is necessary to again undertake the formal determination process and to resolve to exclude the public as above.
- 3.23.5 Additional information of the use of the confidentiality provisions of the Act are contained in *Council's Code of Practice for Access to Council, Council Committee and Information or Briefing Sessions Meetings & Documents*.

4. OPERATING PROCEDURES – CONDUCT AT THE MEETING

4.1. Leave of the Meeting

Legislation – Regulation 3

(4) For the purposes of these regulations, 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, (but nothing in this subregulation prevents a division from being called in relation to the vote).*

4.2. Motions in General, Speaking to Motions and Rights of Reply

Legislation – Regulation 12

(5) Subject to the Act and these regulations, 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, he or she considers 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 his or her 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 member moving or seconding a motion will speak to the motion at the time of moving or seconding 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; or*
- (b) with leave of the meeting ; or*
- (c) as the mover in reply.*

(11) 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

Secunder Speaking to a Motion

4.2.1 Regulation 12(9) is able to be varied at the discretion of Council and therefore Council has determined that the secunder has the option of reserving their right to speak to the motion at the time of seconding but if they choose to exercise this right it must be done prior to the mover in reply.

4.2.2 For clarity, 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 until they have exercised that right.

Questions Regarding a Motion

4.2.3 Council Members may ask questions of the Administration and/or other Members and answer questions directed to them regarding a motion for the purpose of clarification (but not debate) and this will not be considered as speaking to the motion. Members should ensure that it is clearly a question and not used as an opportunity to contribute to the debate.

Contributing to the debate

- 4.2.4 There is no legislative requirement for any or all Members to contribute to the debate (only to vote as per clause 4.7). In considering whether to contribute, particularly where there is a large agenda to be transacted, Members may wish to evaluate whether their contribution will facilitate a more informed and/or progressive debate. Further, Members are not required to advise whether they will/not support the motion as the voting process will reveal their intentions.

Prevention of inaccurate or misleading information during debates

- 4.2.5 If during the course of debate a Council Officer becomes aware that the debate is predicated on incorrect/misleading information and could lead to any erroneous outcome, they may signal to the Mayor that they wish to advise the meeting to correct the record. It will be at the Mayor's discretion as to whether the Officer is to be heard.
- 4.2.6 If an opportunity to advise the meeting is granted, the Officer will limit their comments, to the best of their knowledge, the factual information related to the matter. For clarity, the Officer will take due care to ensure that they do not enter the debate.

Rights of Reply

- 4.2.7 Only the mover of the original motion will be granted the right to reply (this shall close the debate). This will occur after any or all amendments have been dealt with and immediately prior to the original motion or substantive motion being put to the meeting (i.e. immediately prior to the final vote).
- 4.2.8 The right of reply should be utilised to reinforce the rationale for moving the motion and to respond to issues raised in debate. Where possible, it should not be used to introduce new material into the debate.

4.3. Formal Motions**Legislation – Regulation 12**

- (12) A member who has not spoken in the debate on a question may move a formal motion.*
- (13) A formal motion must be in the form of a motion set out in subregulation (14) (and no other formal motion to a different effect will be recognised).*
- (14) 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; or*
 - (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; or*
 - (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); or*
- (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.*
- (15) 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).*
- (16) A formal motion does not constitute an amendment to a substantive motion.*
- (17) If a formal motion is lost-*
- (a) the meeting will be resumed at the point at which it was interrupted ; and*
- (b) if the formal motion was put during debate (and not at the end of debate) on a question, then a similar formal motion (i.e., a motion to the same effect) cannot be put until at least 1 member has spoken on the question.*
- (18) A formal motion for adjournment must include the reason for the adjournment and the details for resumption.*
- (19) Any question that lies on the table as a result of a successful formal motion under subregulation (14)(c) lapses at the next general election.*

- 4.3.1 For clarity, a ‘question’ as referred to Regulation 12 (14)(b-d) is a motion that has been moved and seconded.
- 4.3.2 A formal motion “the question be adjourned” must include the reasons for the adjournment and the details of time and place for the resumption of the debate.
- 4.3.3 If a formal motion that “the question lie on the table” or “the question or meeting be adjourned” as per Regulation 14(c), (d) and (e) is carried, the minutes shall record those that have spoken in the debate. This will ensure that the debate can recommence at the point of the interruption.

4.4. Amendments to Motions

Legislation – Regulation 12
<i>(11)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.</i>

Legislation – Regulation 13
<i>(1) 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.</i>
<i>(2) An amendment will lapse if it is not seconded at the appropriate time.</i>
<i>(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.</i>
<i>(4) If an amendment is lost, only 1 further amendment may be moved to the original motion.</i>
<i>(5) If an amendment is carried, only 1 further amendment may be moved to the original motion.</i>

- 4.4.1 The purpose of an amendment is to refine or modify the substantive motion but not to substantially change the intent of the motion or contradict it. The Mayor will not accept a proposed amendment that is direct negative of the motion.
- 4.4.2 For the avoidance of doubt, any Member (including the mover and seconder of the original motion and any other person who has spoken to the original motion at an earlier stage) is entitled to speak to the amendment and, in doing so, is not taken to have spoken to the original motion.
- 4.4.3 Members speaking in a debate on an amendment must confine their remarks to the amendment and not debate the substantive motion.
- 4.4.4 There is no right of reply to an amendment because it is not a motion. Likewise, no division can be called on an amendment because it is not a motion.

4.5. Variations

Legislation – Regulation 14
<i>(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.</i>
<i>(2) The presiding member must immediately put the question for leave to be granted and no debate will be allowed on that question.</i>

- 4.5.1 The withdrawal of a motion does not preclude another motion on the same matter being moved. Variations, alterations or withdrawal of a motion will be minuted in accordance with Regulation 8(4)(d).

4.6. Addresses by Members

Legislation – Regulation 15
<i>(1) A member must not speak for longer than 5 minutes at any 1 time without leave of the meeting</i>
<i>(2) A member may, with leave of the meeting, raise a matter of urgency</i>
<i>(3) A member may, with leave of the meeting, make a personal explanation</i>
<i>(4) The subject matter of a personal explanation may not be debated</i>
<i>(5) The contribution of a member must be relevant to the subject matter of the debate</i>

- 4.6.1 A personal explanation should provide the Member's account of the reasons or factors regarding an event or situation in which he/she had an involvement. The explanation should not: (a) make imputations of improper motives or contain personal opinions on fellow Council Members, the Administration or members of the public; or (b) be used for making statements regarding Council resolutions.
- 4.6.2 If a Member making a personal explanation wishes that the full text of that Personal Explanation be included in the minutes, it may be included by resolution of the Council, if not, only a brief account shall be included.

4.7. Voting

Council Meetings

4.7.1 Voting in Council meetings is applied as follows:

Legislation – Regulation 16

- (1) *The presiding member, or any other member, may ask the chief executive officer 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 person who is not in his or her seat is not permitted to vote.*
- 4) *Subregulation (3)—*
 - a) *may be varied at the discretion of the council pursuant to regulation 6;*
 - 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; and*
 - c) *is varied in relation to a member participating in a council meeting by electronic means such that the reference to “not in his or her seat” is taken to include a disconnection of the electronic means.*
- 5) *In this regulation— **disconnection of the electronic means** 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 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.*

4.7.2 Each Member present at the meeting of council, must, subject to the provisions of the Act to the contrary, vote on a question arising from that meeting [section 86(4)].

4.7.3 The Mayor, or another member presiding in the absence of the Mayor, at a meeting of council, does not have a deliberative vote on a question arising but has, in the event of an equality of votes, a casting vote [section 86(6)].

4.7.4 In most cases the requirement is a simple majority of the Members present and entitled to vote however there are provisions in both the Act and the Regulations that require either a two-thirds or an absolute majority of the Members of Council for resolutions on specified matters.

- 4.7.5 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 by electronic means which has audio only, a verbal indication of voting in the affirmative or voting in the negative.
- 4.7.6 The Mayor, or any other Member, may ask the CEO to read out a motion or amendment before a vote is taken.
- 4.7.7 In relation to a Member participating in a Council meeting by electronic means, a member is not permitted to vote in circumstances where there has been a disconnection of the electronic means.

Appointments to Positions

- 4.7.8 Due to the potential implications of the Conflict of Interest provisions under s73 and s75 regarding the appointment of Council Members to positions (particularly those with potential personal or pecuniary benefits), the Council should adjourn the meeting for the purposes of seeking nominations for and, if necessary, conducting an indicative vote (Indicative Voting Process) to determine the preferred person for the positions.
- 4.7.9 As the Indicative Voting Process involves discussion of a matter that is, or is intended to be, part of the agenda for a formal meeting of the Council, it is an Information or Briefing Session that is required to be open to the public under s90A(3) (see the *Information or Briefing Sessions Policy* (the Policy)). As an Information or Briefing Session that is required to be open to the public, the Chief Executive will conduct the meeting in accordance with the Policy.
- 4.7.10 The Indicative Voting Process is:
- a. The Mayor seeks a motion to adjourn the meeting for the purpose of conducting an Indicative Voting Process.
 - b. Once the meeting is adjourned (and the Information or Briefing Session has commenced), the Chief Executive Officer calls for self-nominations for the position(s). If Council Officers or Independent Committee Members are eligible for appointment to the position, they can also self-nominate. If Council Officers are being put forward for consideration by the CEO this will be included in the report.
 - c. If the number of nominees is equal to or less than the number of positions, no election will be required. If the number of nominees is greater, an election will be necessary.
 - d. The CEO will appoint a Council Officer as the Returning Officer and may enlist other Council Officers to assist with the conduct of the vote and the count.
 - e. The method of voting will be by secret ballot utilising the preferential counting system
 - f. Each Council Member (including the Mayor) shall have one vote.
 - g. Ballot papers will be provided to each Council Member
 - h. The nominee's names will be drawn by the Returning Officer to determine the order on the ballot paper.
 - i. Each nominee will have two (2) minutes to speak to the Information or Briefing Session in support of their candidacy. The speaking order will be as listed on the ballot paper.

- j. Members will cast their votes and the completed ballot papers will be collected by the Returning Officer and the count will be undertaken in a separate room with an observer [another Council Member (not being a nominee for the position being determined) or an Officer] present.
- k. In the event of a tie, the result will be decided by the Returning Officer drawing lots, the candidate first drawn being the candidate excluded.
- l. After all votes have been counted, the Returning Officer shall return to the Gathering and publicly declare the result of the election (i.e. the preferred person).
- m. The ballot papers will be shredded.
- n. With the conclusion of the Indicative Voting Process, the Council meeting will resume in accordance with the adjournment resolution.
- o. Upon resumption, any Council Members who nominated for the positions would be advised to consider their obligations under s74 or s75A of the Act (as applicable).
- p. Council can then consider a motion for the preferred person to be appointed to the position(s)

4.8. Divisions

Legislation – Regulation 17
<p><i>(1) A division will be taken at the request of a member.</i></p> <p><i>(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.</i></p> <p><i>(3) The division will be taken as follows:</i></p> <ul style="list-style-type: none"> <i>(a) subject to subregulation (3a), the members voting in the affirmative will, until the vote is recorded, stand in their places;</i> <i>(b) subject to subregulation (3a), the members voting in the negative will, until the vote is recorded, sit in their seats;</i> <i>(c) the presiding member will count the number of votes and then declare the outcome.</i> <p><i>(3a) Where a member is participating in a meeting by electronic means which has audio only, the member will provide a verbal indication of voting in the affirmative or voting in the negative.</i></p> <p><i>(4) The chief executive officer 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).</i></p> <p><i>(5) Subregulation (3) may be varied at the discretion of the council pursuant to regulation 6</i></p>

4.9. Tabling of Information

Legislation – Regulation 18

- (1) *A member may require the chief executive officer to table any documents of the council relating to a motion that is before a meeting (and the chief executive officer 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 officer 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.*

- 4.9.1 A record of any request for documents tabled at the meeting and a record of any documents tabled at the meeting must be made in the minutes of the meeting.
- 4.9.2 If the tabling of documents is crucial to the consideration of the matter and the documents are not able to be tabled in an expeditious manner, the meeting may consider a formal motion to adjourn the question.

4.10. Short-Term Suspension of Proceedings

Legislation – Regulation 20

- (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 subregulation (1).*
- (3) *If a suspension occurs under subregulation (1)—*
- (a) a note of the suspension, including the reasons for and period of suspension, must be entered in the minutes; and*
 - (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; and*
 - (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; and*
 - (c) the period of suspension should be limited to achieving the purpose for which it was declared; and*
 - (d) the period of suspension will come to an end if—*

- | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> (i) <i>the presiding member determines that the period should be brought to an end; or</i> (ii) <i>at least two-thirds of the members present at the meeting resolve that the period should be brought to an end.</i> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

4.10.1 Use of a short term suspension can be useful when Members could benefit from some informal sharing of ideas, opinions without the constraints of speaking to motions.

4.11. Points of Order

Legislation – Regulation 28	
(1)	<i>The presiding member may call to order a member who is in breach of the Act or these regulations</i>
(2)	<i>A member may draw to the attention of the presiding member a breach of the Act or these regulations, and must state briefly the nature of the alleged breach</i>
(3)	<i>A point of order takes precedence over all other business until determined</i>
(4)	<i>The presiding member will rule on a point of order</i>
(5)	<i>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</i>
(6)	<i>The presiding member is entitled to make a statement in support of the ruling before a motion under subregulation (5) is put</i>
(7)	<i>A resolution under subregulation (5) binds the meeting and, if a ruling is not agreed with –</i>
	(a) <i>the ruling has no effect; and</i>
	(b) <i>the point of order is annulled</i>

4.11.1 Points of order are not recorded in the minutes. The only entry in the minutes in relation to a point of order would be to record the process of a motion to disagree with a ruling by the Mayor.

4.12. Interruption of Meetings by Members

Legislation – Regulation 29	
(1)	<i>A member of a council or council committee must not, while at a meeting –</i>
	(a) <i>behave in an improper or disorderly manner or</i>
	(b) <i>cause an interruption or interrupt another member who is speaking</i>
(2)	<i>Subregulation (1)(b) does not apply to a member who is –</i>
	(a) <i>objecting to words used by a member who is speaking or</i>
	(b) <i>calling attention to a point of order or</i>
	(c) <i>calling attention to want of a quorum</i>
(3)	<i>If the presiding member considers that a member may have acted in contravention of subregulation (1), the member must be allowed to make a personal explanation</i>
(4)	<i>Subject to complying with subregulation (3), the relevant member must leave the meeting while the matter is considered by the meeting</i>
(5)	<i>If the remaining members resolve that a contravention of subregulation (1) has occurred, those members may, by resolution –</i>
	(a) <i>censure the member or</i>
	(b) <i>suspend the member for a part, or for the remainder, of the meeting</i>
(6)	<i>A member who –</i>

(a) *refuses to leave a meeting in contravention of subregulation (4) or*
 (b) *enters a meeting in contravention of a suspension under subregulation (5)*
is guilty of an offence.

4.12.1 Offences under Regulation 29 carry a financial penalty.

4.13. Interruption of Meetings by Others

Legislation – Regulation 29

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

- (a) *behave in a disorderly manner or*
 (b) *cause an interruption*

4.13.1 Offences under Regulation 29 carry a financial penalty.

4.14. Meeting Protocols

Mobile Phones/Pagers

4.14.1 Mobile phones/pagers should be switched off or silent during Council meetings unless prior approval is granted by the Mayor for the phone/pager to remain active.

Speaking during meetings

4.14.2 Council Members and Council Officers will raise their hand (in full view of the device's camera or utilising the 'raise hand' function for participation by electronic means) and wait to be invited to speak by the Mayor prior to addressing the Council.

4.14.3 Upon being invited to speak, the Member or Officer will lower their hand, unmute their microphone for the duration of their speech and will mute their microphone when concluded.

4.14.4 When addressing Council, the Member or Officer will speak 'through the chair' (e.g. 'through your Worship').

Forms of Address

4.14.5 The Mayor shall be addressed as Your Worship or Mayor.

4.14.6 Councillors should be referred to as 'Councillor' followed by their surname.

4.14.7 Council Officers should be referred to by the relevant prefix followed by their surname or by their position title (i.e. CEO, Director Community Capacity).

Interaction with the Gallery

4.14.8 The Mayor may speak to members of the Gallery for the purposes of welcoming attendees, arranging Deputies and Public Forum speakers and providing other information related to the functioning of the meeting.

4.14.9 Councillors must not speak to members of the Gallery during the meeting or accept notes from those present in the Gallery. The only exception is when Members of the Gallery are making a Deputation or speaking in the Public Forum.

4.14.10 Council Officers should also minimise discussion with members of the Gallery during the meeting other than to provide guidance regarding meeting logistics.

5. OPERATING PROCEDURES – RECORDING/BROADCASTING OF THE MEETING

5.1. Recording of Meetings

- 5.1.1 Council meeting will be recorded using the electronic meeting software (i.e. audio and visual).
- 5.1.2 As a general rule, the recordings will be captured by the Administration of open Council meetings to be used for the purpose of:
 - a. assisting in the preparation of minutes
 - b. ensuring decisions are accurately recorded
 - c. verifying the accuracy of minutes prior to their confirmation.
- 5.1.3 Recordings will be managed in accordance with the provisions of the *State Records Act 1997*, *Surveillance Devices Act 2016* and the *Freedom of Information Act 1991* (FOI Act).
- 5.1.4 The recording is an internal working document and is not the official record of the meeting. The official record of the meeting is the meeting minutes which require confirmation by resolution and are signed by the Mayor.
- 5.1.5 In the absence of any technical difficulties, recordings of Council meetings [with any provisions subject to s90(3) redacted] will be placed on the Council website to coincide with the publication of the Council minutes.

5.2. Livestreaming/broadcasting of Meetings

- 5.2.1 Council meetings will be livestreamed/broadcast using the electronic meeting software (i.e. audio and visual) into social media channels and/or Council's website as determined by the Chief Executive Officer.
- 5.2.2 Details of the livestream/broadcast will be included on the Council website to enable members of the public to observe the meeting. The livestream/broadcast settings will not allow the public to participate in the meeting, other than by deputation.
- 5.2.3 Further information on the public access to Council Meetings can be found in the *Code of Practice for Access to Council, Council Committee and Information or Briefing Session Meetings & Documents*.

5.3. Minutes of Meetings

- 5.3.1 In accordance with section 91 of the *Local Government Act 1999*, the CEO must ensure that minutes are kept of the proceedings at every meeting of Council.
- 5.3.2 If the CEO is excluded from a meeting, the Mayor must ensure the minutes are kept.
- 5.3.3 Each Member of the Council must, within five (5) days after a meeting of a Council, be supplied with a copy of all minutes of the proceedings of the meeting.
- 5.3.4 Minutes of all Council meetings will be posted on Council's website as soon as practicable after they are completed.

- 5.3.5 More information of public access to Council documents is contained in the *Code of Practice for Access to Council, Council Committee and Information or Briefing Session Meetings & Documents*.

Legislation – Regulation 8

- (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; and*
 - (b) *place his or her signature and the date of confirmation at the foot of the last page of the minutes.*
- (3a) *For the purposes of subregulation (3), the presiding member may initial or sign the minutes 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; and*
 - (b) *in relation to each member present -*
 - (i) *the time at which the person entered or left the meeting; and*
 - (ii) *unless the person is present for the whole meeting, the point in the proceedings at which the person entered or left the meeting;*
 - (iii) *the method of attendance by the person; and*
 - (c) *each motion or amendment, and the names of the mover and seconder; and*
 - (d) *any variation, alteration or withdrawal of a motion or amendment; and*
 - (e) *whether a motion or amendment is carried or lost; and*
 - (f) *any disclosure of interest made by a member; and*
 - (g) *an account of any personal explanation given by a member; and*
 - (h) *details of the making of an order under subsection (2) of section 90 of the Act (see subsection (7) of that section); and*
 - (i) *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; and*
 - (j) *details of any adjournment of business; and*
 - (k) *a record of any request for documents to be tabled at the meeting; and*
 - (l) *a record of any documents tabled at the meeting; and*
 - (m) *a description of any oral briefing given to the meeting on a matter of council business; and*
 - (n) *any other matter required to be included in the minutes by or under the Act or any regulation.*

-
- 5.3.6 In accordance with Notice No 5 and further to Regulation 8(4)(iii), the minutes of the proceedings of a meeting must include in relation to each member present at the meeting the method of attendance by the person.

Example:

The following are examples of methods of attendance:

- (a) physical attendance;
 - (b) by an audio-visual link;
 - (c) by an audio link;
 - (d) by telephone.
- 5.3.7 As the minutes are a reflection of decisions made by meeting as a whole, minutes of the meeting do not record (with the exception of a Division in accordance with Regulation 17 and as required under section 75A – *Dealing with actual and perceived conflicts of interest*) the names of the Members who voted in the affirmative or negative for a particular item. Minutes will also not record or reflect specifics of debate of an item.

6. ADMINISTRATIVE ARRANGEMENTS

6.1. Availability of the Code

6.1.1 This Code is available via the Council's website www.ahc.sa.gov.au.

6.2. Delegation

6.2.1 The CEO has the delegation to:

- a. Approve, amend and review any procedures that shall be consistent with this Code.
- b. Make any legislative, formatting, nomenclature or other minor changes to the Code during the period of its currency.

APPENDIX A - AGENDA TEMPLATE FOR ORDINARY COUNCIL MEETINGS

- 1. COMMENCEMENT**
- 2. OPENING STATEMENT**
- 3. APOLOGIES/LEAVE OF ABSENCE**
 - 3.1. Apology**
 - 3.2. Leave of Absence**
 - 3.3. Absent**
- 4. MINUTES OF PREVIOUS MEETINGS**
- 5. DECLARATION OF INTEREST BY MEMBERS**
- 6. MAYOR'S OPENING REMARKS**
- 7. QUESTIONS ADJOURNED/LYING ON THE TABLE**
 - 7.1. Questions Adjourned**
 - 7.2. Questions Lying on the Table**
- 8. PETITIONS / DEPUTATIONS / PUBLIC FORUM**
 - 8.1. Petitions**
 - 8.2. Deputations**
 - 8.3. Public Forum**
- 9. PRESENTATIONS**
- 10. QUESTIONS ON NOTICE**
- 11. MOTIONS ON NOTICE**
- 12. ADMINISTRATION REPORTS – DECISION ITEMS**
- 13. ADMINISTRATION REPORTS – INFORMATION ITEMS**
- 14. QUESTIONS WITHOUT NOTICE**
- 15. MOTIONS WITHOUT NOTICE**
- 16. REPORTS**
 - 16.1. Council Member Reports**
 - 16.2. Reports of Members/Officers as Council Representatives on External Organisations**
 - 16.3. CEO Report**
- 17. REPORTS OF COMMITTEES**
- 18. CONFIDENTIAL ITEMS**
- 19. NEXT MEETING**
- 20. CLOSE MEETING**

APPENDIX B – MOTION ON NOTICE TEMPLATE

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
<day> <date>
AGENDA BUSINESS ITEM**

Item: 12.1 Motion on Notice

Originating from:

Subject:

1. MOTION

I move... <body of motion>

2. BACKGROUND

3. OFFICER'S RESPONSE – Officer Name, Position

ANALYSIS

- **Strategic Management Plan/ Functional Strategy/Council Policy Alignment**
- **Legal Implications**
- **Risk Management Implications**
- **Financial and Resource Implications**
- **Customer Service and Community/Cultural Implications**
- **Sustainability Implications**
- **Engagement/Consultation conducted in the development of the report**
- **Other Matters**

APPENDIX C – ADMINISTRATION REPORT TEMPLATE

**ADELAIDE HILLS COUNCIL
ORDINARY COUNCIL MEETING
<day> <date>
AGENDA BUSINESS ITEM**

Item: 12.

Responsible Officer:

Subject:

For: Decision/Information

SUMMARY

RECOMMENDATION

That Council resolves:

1. To receive and note the report
 - 2.
-

1. **BACKGROUND**

2. **ANALYSIS**

- **Strategic Management Plan/ Functional Strategy/Council Policy Alignment**
- **Legal Implications**
- **Risk Management Implications**
- **Financial and Resource Implications**
- **Customer Service and Community/Cultural Implications**
- **Sustainability Implications**
- **Engagement/Consultation conducted in the development of the report**
- **Other Matters**

3. **OPTIONS**

4. **APPENDICES**