



Government of **Western Australia**  
Department of **Local Government and Communities**

# A Guide to Meetings

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for elected members to support their effective participation in council and committee meetings.

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## Introduction

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This 'Guide to Meetings' is designed as a guide for elected members to support their effective participation in council and committee meetings. It outlines the roles and responsibilities of council and committee members and details meeting procedure in line with the Western Australian legislative requirements and accepted meeting practice.

As elected representatives in local government, elected members (Mayors, Presidents and Councillors) are required to attend council and committee meetings. It is in meetings that elected members participate in discussion and debate on a wide variety of issues to make decisions representing the overall public interest of the local government's area.

Well prepared agendas, orderly meetings and minutes that accurately reflect the actual decisions of council meetings are arguably the most important records of local governments. Well prepared agendas and accurate minutes ensure that:

- Council has acted within its authority under the *Local Government Act 1995* (the Act); and
- the council's decision making process is properly documented, transparent and accountable.

Legislative requirements are based on the principles of the Act and relevant supporting regulations for achieving;

- transparent and effective processes and decision making in the public interest;
- sustainable development and management of assets and infrastructure, and delivery of effective services;
- democratic representation, social inclusion and meaningful community engagement;
- good governance of, and by, local government; and
- ethical and legal behaviour of elected members and local government employees.

The conduct of open, fair and accountable meetings of local government is important in fulfilling these principles.

# 1. The strategic leadership role of elected members

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As the level of government closest to the people, a local government must be accessible to its community. Citizens look to their councils to provide local solutions to problems.

The effective administration of the local government area depends on the performance of elected members as the elected community leaders. The high public expectations of elected members are set out by the description of the role of council in section 2.7 of the Act;

- to govern the local government's affairs;
- responsible for the performance of the local government's functions;
- oversee the allocation of the local government's finances and resources; and
- determine the local government's policies.

Elected members are responsible for planning the future of their communities and developing the strategies and policies to achieve those plans. Councillors need to demonstrate strategic vision and leadership by putting in place guiding principles, policies and local laws. A strategic focus ensures that council can plan for and meet the future needs of its community.

Effective community leadership is a vital ingredient of good local governance. Councillors must endeavour to work as a team to serve the community.

## 1.1 Elected members' leadership role and meetings

Developing a vision for the community and deciding what needs to be done to achieve that vision is an important leadership role for council members. Getting the community to contribute to, endorse and follow that vision and associated plans demands leadership qualities. In doing so, it is important to recognise that the most fundamental task is to try to achieve a strong sense of shared purpose and commitment. The needs and desires of the community are constantly changing and evolving. Councillors must be prepared to initiate new policies and activities in response to these changes.

Most of the decision making of a local government is undertaken in council meetings. Elected members are required to attend meetings regularly and must vote (except where a financial or proximity conflict of interest occurs) on matters coming before a meeting. Elected members can ensure a positive and valid contribution to meetings by:

- representing their constituents as the consultative link between council and the community;
- adequately preparing for meetings;
- planning for the needs of the community and having a vision for the future;
- providing strategic direction through policy initiatives;
- overseeing the financial stewardship of the council;
- abiding by the provisions of the Act and the requirements of regulations and the other legislation governing local governments; and
- recognising that the council has been entrusted by the community to make decisions for the community as a whole.

## 1.2 Representing council and the community effectively

To be effective, council members need to understand the views of the people they represent. Communication is a two-way process. Council members provide information to the community about the policies and decisions of council and the community relays its desires, concerns and opinions to the council through the members. To represent both electors and the council effectively, a council member needs to be a good communicator and keep in touch with the local community.

Members can keep in touch with electors in a variety of ways including:

- attending meetings of local organisations;
- being available and responding to residents who wish to raise issues or concerns;
- attending events arranged by the local government;
- participating in functions held in the local area;
- communicating with the community via a newsletter, e-mail or Website; and
- reading the local paper.



Understanding the needs and aspirations of the community and bringing that insight to meetings greatly enhances the decision making process. To be an effective elected representative it is important to be able to perform well in meetings. It requires the ability to:

- communicate, debate and actively participate in meetings;
- enhance discussion and assist discussions to reach closure;
- disagree without being disagreeable;
- develop and maintain effective working relationships and to manage interpersonal conflicts; and
- exercise independent judgement.

### 1.3 Elected member and council employee relationships

Separation of powers and roles between the elected and administrative arms of government is one of the foundations of all levels of government in Australia.

An understanding and acceptance of the roles the Act has defined for elected members and for the council administration, and cooperation between all parties, underpins good governance in local government. The relationships between a council's elected members and their CEO need to respect the diversity of opinion and the rights for all points of view to be heard with courtesy and respect.

The Mayor or President and the Chief Executive Officer (CEO) are the respective conduits between the executive and the administrative arms of council.

The elected members are the executive arm that makes local laws, decides policy and other matters at a strategic level. The elected members are responsible for the overall direction of the local government.

The CEO implements the policies and decisions of council and manages the day to day business, including directing council employees. Council members acting individually do not have the authority to influence the activities, duties and operations of council employees.

The Act clearly defines the relationships between the roles and separation of powers under sections 2.7, 2.8, 2.9 and 2.10 and through regulation 9 and 10 of the *Local Government (Rules of Conduct) Regulations 2007*.

For a local government to operate effectively it is important that both the elected members and employees clearly understand and acknowledge the differing but complementary nature of their respective roles.

The Mayor or President is to liaise with the CEO on the local government's affairs and the performance of its functions but no other elected member is allowed to do so.

While roles and responsibilities are crucial to good governance, good relationships are vital to ensure that the various players act within their roles and undertake their responsibilities. These relationships take a variety of forms.

### **1.3.1 Relationships between the Mayor /President and Councillors**

The Mayor/President has responsibility for presiding at council meetings and controlling the debate. To facilitate good relationships, the Mayor/President must ensure that all councillors with a desire to speak are given a fair opportunity.

The Mayor/President should also encourage councillors to express different points of view and promote respect for diversity of opinion. To assist the Mayor/President in controlling meetings and facilitating debate on controversial issues where opinions differ, local governments adopt Standing Orders or Council Meetings Local Laws.

This law provides the rules which guide meeting procedure and debate and the Mayor/President (or other Presiding person in their absence) is responsible for applying the Standing Orders at meetings. Councillors should respect the Mayor/President in their Presiding Member role.

Elected members should be strategic in their approach, engaging with the people to ensure that council decisions mirror community needs and interests. Councils should function like a board of directors that sets the strategic direction of the local government and designs the policies and strategies to help achieve it.

### **1.3.2 Relationships between Councillors**

Councillors are elected by the community to work collectively in the best interests of their district. Councillors should respect the views of other councillors and acknowledge that, while agreement may not be reached on all issues, all are doing important work. Councillors need the support of other councillors to achieve individual goals especially at council and committee meetings in the Council chamber and elsewhere. Positive relationships with other councillors are important to achieve this support. Councillors, who treat other councillors with respect and courtesy, even when they disagree with the point of view being expressed, are more likely to receive support in the future. Disagreements between councillors should be expressed in ways which are not personal attacks and are not specifically detrimental to individuals supporting other positions.

### **1.3.3 Relationships between the Mayor/President and the CEO**

Legislation requires that the Mayor/President and the CEO liaise with each other (s2.8 and 5.41 of the Act). Consequently, it is vital that a good relationship exists between the two. The basis for this relationship should be trust as well as respect for each other's opinion. A 'no surprises' policy should also apply. That is, the Mayor/President and CEO should brief one another so that neither can be caught 'off guard' in conversations or at meetings. Features of a good and effective Mayor/President/CEO relationship are:

- open and regular communication with each person keeping the other informed about important and relevant issues;
- an understanding that each have different roles and responsibilities. While the Mayor/President is the leader of the local government, this position has no day to day management role and the CEO is not able to set council policies and strategic direction; and
- the need for the relationship between the Mayor/President and the CEO to involve and include the councillors and the staff. It does not seek to concentrate power in the relationship.

### **1.3.4 Relationships between Councillors and the CEO**

Unlike for the Mayor/President, the Act identifies no specific relationship between councillors and the CEO. However, councillors and the CEO are likely to be in regular contact about issues, problems and information. A number of factors contribute to a good relationship between councillors and the CEO including:

- trust and goodwill;
- a clear understanding of each other's role and the associated legislative requirements;
- good communication; and
- agreed structures and protocols.

### **1.3.5 Relationships between Councillors and other employees**

The Act specifies that the local government's employees are accountable to the CEO, that the CEO is accountable to the council. All Council contact with Administration should be through the CEO. Most CEOs have agreed communication protocols in place, and this may include councillor access to senior staff. No elected member may undertake a task that contributes to the administration of the local government, unless authorised to do so by the council or by the CEO. Consequently, it is inappropriate for Councillors to direct employees or for employees to take direction from Councillors.

*(s5.104 of the Act and Rules of Conduct Regulations 9 and 10)*

## 2. Meetings, legislation and good governance

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### 2.1 Meeting related legislation

Of all the meetings elected members attend, ordinary council meetings are arguably the most important. Meeting procedure is based on a majority rules, Westminster style system developed over hundreds of years by parliaments around the world to provide for debate and decision making without conflict. Decisions of a council can only be made by the adoption of a motion by a majority of the members present at a properly convened meeting. The rules allow for only one person to speak at a time.

Effective contribution to and representation at meetings by elected members increases the quality of council decisions. Elected members should have knowledge of the following Acts, Regulations, and Department of Local Government and Communities (Department) guidelines to assist them at meetings:

- *Local Government Act 1995*
- *Local Government (Administration) Regulations 1996*
- *Local Government (Rules of Conduct) Regulations 2007*
- *Defamation Act 2005*

For access to published legislation, see the State Law Publisher [www.slp.wa.gov.au](http://www.slp.wa.gov.au)

- Council Local Laws (especially Standing Orders)
- Department's '*Preparation of Agenda and Minutes Guide*'
- Department's '*Operational Guidelines*':
  - *No 1 Disclosure of Interests Affecting Impartiality*
  - *No 3 Managing Public Question Time*
  - *No 5 Council Forums*
  - *No 6 Disruptive Behaviour by the Public at Council Meetings*
  - *No 7 Clarity in Council Motions*
  - *No 20 Disclosure of Financial Interests at Council Meetings*

(For access to the Department's Guidelines, see [www.dlhc.wa.gov.au](http://www.dlhc.wa.gov.au) )

## 2.2 Abiding by good governance principles of the Act

Elected members are required by section 2.29 of the Act and *Local Government (Constitution) Regulation 13 (1)(c)* to make a declaration of Office to ‘*take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the Local Government (Rules of Conduct) Regulations 2007.*’

One of the explicit principles within the Act involves the ethical and legal behaviour of elected members. With respect to conduct, the Act has provisions (sections 5.102A to 5.125 of the Act) for reporting and investigation of these matters. Elected members are also subject to the provisions of the *Corruption and Crime Commission Act 2003* and the *Defamation Act 2005*.

The public interest must always take precedence over the private interests of elected members. Private interests include financial and non-financial interests, electoral gifts, as itemised in the council’s electoral gifts register, and the register of financial interests, maintained at each local government by the CEO.

Under the Act, elected members have a responsibility to take particular action where questions of financial interest or conflicts of interest affecting impartiality arise in council deliberations or decisions. This is covered later in this Manual.

## 2.3 Meeting standards for elected members

People often view the workings of State and Commonwealth governments as an adversarial arena where the various political groupings try to best their opponents through debate and often using personal abuse in the process. In contrast, the small group nature in local government councils creates a meetings environment where good relations, good behaviour, mutual respect and an appreciation of the diversity of views of others, leads to harmonious meetings and assists good decision-making. Elected members need each other to achieve their individual and collective goals.

Elected members have a responsibility to behave professionally in and out of council meetings. Elected members should maintain good working relationships with each other and act in a manner appropriate to their civic status. This includes compliance with the standards of conduct at meetings as established under the Rules of Conduct Regulations and their council's Standing Orders Local Law or meeting policy. These Standing Orders or policy should reflect the high expectations of performance and accountability, as set out in the Act (s2.10 (a) to (e)) whereby an elected member:

- represents the interests of electors, ratepayers and residents of the district;
- provides leadership and guidance to the community in the district;
- facilitates communication between the community and the council;
- participates in the local government's decision making processes at council and committee meetings; and
- performs such other functions as are given to a councillor by the Act or any other written law.

### **2.3.1 Inappropriate meeting conduct**

When respect evaporates at a council or committee meeting, respect for the whole local government sector is diminished. Debate and argument should not lead to conflict, grandstanding, bullying or aggression. Everyone present at a council or committee meeting must show respect for others, whether elected members, employees or members of the public.

A council must deal with any disorder of its members. As an elected member you should take responsibility for your own behaviour and that of your colleagues.

General principles to guide the behaviour of council members include that a person in his or her capacity as a council member should:

- act with reasonable care and diligence;
- act with honesty and integrity;
- act lawfully;
- avoid damage to the reputation of the local government;
- be open and accountable to the public;
- base decisions on relevant and factually correct information;

- treat others with respect and fairness; and
- not be impaired by mind affecting substances.

(Rules of Conduct regulation 3)

Elected members must comply with their Standing Orders or meetings policy as adopted for the conduct of council and committee meetings.

Behaving in an offensive or disorderly manner in a council or committee meeting contrary to a Standing Orders Local Law is considered to be a minor breach as defined in section 5.105(1)(b) of the Act.

## 2.4 Protection from liability

### 2.4.1 Qualified privilege

In a council meeting, elected members fulfil a public duty and are therefore given limited protection from legal actions of defamation. However, unlike a Member of Parliament, the local government elected member's privilege is qualified. This means that protection is only provided as long as the statements are made in good faith. Statements made with malice or made recklessly are not protected by qualified privilege. It should also be noted that statements made outside of council meetings are unlikely to attract qualified privilege.

Elected members should also become familiar with section 5.104 of the Act which provides for regulations for the rules of conduct for elected members. Regulation 7 of the *Local Government (Rules of Conduct) Regulations 2007* states that an elected member must not make improper use of their office to cause detriment to the local government or any other person. This provision has relevance to what an elected member can say and how they act whilst performing their role and carrying out their duties as an elected member.



### 2.4.2 Defamation

Controversial issues may arise during the course of council or committee meetings. Elected members are encouraged to debate the statements made by fellow members rather than be critical of the person. If members make personal comments that slur an elected member they risk defaming the person and breaching provisions of the *Defamation Act 2005*. Elected members are not protected from defamation in the same way that Members of Parliament are, for statements they make in the council chamber.

The law for defamation aims to balance free speech with the protection of the right of an individual to enjoy a reputation free from indefensible attack. Defamation may be divided into libel, which relates to written or pictorial material, and slander, which relates to oral comments. Defamation can be defined as anything that tends to lower a person in the estimation of members of society. Therefore, elected members should ensure:

- that comments made are pertinent to the business of the local government;
- that comments are not made maliciously, or without due regard to whether they represent the truth; and
- that they do not engage in communication that harms the reputation of another person.

For more information, elected members can refer to the *Defamation Act 2005*.

### 2.4.3 Act protection from liability

Division 4 of Part 9 of the Act provides for protection from liability for wrongdoing for elected members, committee members and employees, 'relating to' or 'arising from' actions of negligence that the person has done, or has not done, in the performance of their functions under the Act or any other written law.

### 2.4.4 Quasi-Judicial role of elected members

Quasi-judicial functions are those which involve the making of a decision by a local government council in the exercise of a discretionary power. Local governments perform quasi-judicial functions when deciding to approve or not to approve applications for planning or development approval and for other approvals, licences, consents and permits. Elected members (and employees when acting under

delegated authority) must therefore act in a judicial manner (for example judge-like) when performing quasi-judicial functions.

To act in a quasi-judicial manner, elected members must apply the principles of natural justice and without bias or conflict of interest, make decisions in a judicial manner based on:

- the law and the relevant local government's policies as they exist; and
- the facts and merits of the case.

Applicants submitting documents for approval may attempt to persuade individual elected members in favour of their proposals. Elected members must remain objective and deal impartially with applicants or affected persons.

Determining applications must be based on sound legislative rationale and not on specific public perception. The role of an elected member in the decision-making process is to determine the application on the information and recommendation provided by their council's professional employees. The role of the professional employee is to assess the application and provide an impartial, professional opinion and recommendation to the elected members. To avoid prejudicing the eventual decision, elected members must not make up their minds about a development application until they have read the officer's reports and heard all the meeting debate.

Decisions made in relation to development applications are made under the local government's town planning scheme and the discretions allowed under that scheme.

Elected members must not lose sight of the fact that when making decisions on development applications they have to apply the rules and discretions, as they exist, not as they might want them to be. The local government must comply with the provisions of the legislation dealing with planning decisions.

Elected members must be aware of their local government's adopted procedures for dealing with a development application to ensure a clear distinction between the task of an employee assessing an application and the task of the council determining an application. The procedures should minimise the opportunity for the two roles to be confused and should also ensure that those determining applications are not able to direct or unduly influence those carrying out the assessment and vice versa.

An elected member acting when biased and without disclosing an interest affecting impartiality, may breach regulation 11 of the Rules of Conduct regulations. Non-compliance with quasi-judicial principles could result in council decisions being invalidated. The Department's *Operational Guideline No 12 'Elected Members Relationship with Developers'* provides additional information.

## 3. Meeting types

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Elected members participate in:

- ordinary council meetings where council conducts its core business;
- council committee meetings – standing committees are appointed by some councils to oversee specific functions, projects or programs;
- special council meetings called on occasions to address an urgent item of business; and
- forums (also referred to as briefing sessions) that allow elected members and officers to meet through an informal meeting setting and discuss matters relating to the operation and affairs of their local government outside of the formal council meeting framework. Elected members may ask questions but decisions are not allowed to be made at these forums, as they are outside the formal council meeting framework.

### 3.1 Ordinary council meetings

Elected members have a duty and responsibility to attend all council meetings to ensure that the district's electors are adequately represented. The number of council and committee meetings that elected members will be required to attend will vary according to the frequency of their local government's scheduled ordinary and committee meetings.

Ordinary council meetings are formal meetings of the elected council members and are required to be open to the public (although under certain conditions, council meetings can be closed under provisions of the Act). In order to promote the transparency and accountability required for good governance the closed meeting provisions should be applied as infrequently as possible. See also 5.2 of this Manual.

Good decision making at a council meeting is enhanced when the meeting is well run. This requires a clear and informative agenda paper, good chairing and facilitation, adherence to meeting procedures and to statutory requirements. There should also be a strong commitment to the principle of council meetings being open to members of the public so that they are fully informed and, where appropriate, involved in the decisions and affairs of the council.

### 3.1.1 Meetings frequency

Section 5.3 of the Act requires a council to hold ordinary meetings and provides that they may hold special meetings. Ordinary meetings are to be held not more than three (3) months apart.

### 3.1.2 Meetings location and start time

Council meetings are, as a rule, held at the public office of the local council. It is acceptable to conduct a meeting in a place other than the public office. To do this the council must pass a resolution to determine another meeting place.

The foremost consideration when it comes to start time should be the convenience of the elected members to attend, taking into account matters such as employment and business commitments, carer responsibilities and safety issues (e.g. members having to drive long distances and at night). Scheduled early evening meetings allow elected members and members of the public with daytime jobs the opportunity to attend meetings.

## 3.2 Special meetings

When required, a special meeting of council may be called by the Mayor or President or by at least one third of the councillors. The CEO will convene the special meeting and arrange public notice if the meeting is to be open to the public. A special meeting requires that:

- public notice be given and it must specify the purpose of the meeting; and
- it must only deal with the item of business as set out in the notice of the meeting.

Although special meetings of council are to be open to members of the public, if in the opinion of the CEO it is not practicable to advertise the details of the meeting in the newspaper, then a public notice providing the details and purpose of the meeting must be given by whatever means the CEO considers to be practicable (e.g. display on notice boards, at public library, on council website).

*See s5.23 of the Act and regulation 12 (4) of the Local Government (Administration) Regulations 1996.*

### 3.3 Committee meetings

The Act enables councils (section 5.8 of the Act) to form committees to assist it with its functions. Committee members can include elected members, employees and members of the public in a variety of combinations. Committees can operate with council delegated decision making powers or solely on an advisory basis. Advisory committees where members are drawn from both council and the community give the community a significant opportunity to provide input into the council's decision making meeting process.

### 3.4 Participation by instantaneous communications

Section 5.25(ba) of the Act provides for the holding of council or committee meetings by telephone, video conference or other electronic means. The record of meeting attendance must contain the name and other required details of any member not physically present who has been approved by council (absolute majority required) to attend a council or committee meeting by telephone, video conference or by other electronic means (Administration regulations 11(a) and 14A).

For the purposes of Administration regulation 14A, a person who is not physically present at a council or committee meeting is to be taken to be present if;

- the person is simultaneously in audio contact with each other person present at the meeting by telephone or other instantaneous communication means;
- the person is in a suitable place (approved by absolute majority); and
- the council has approved (by absolute majority) of the arrangement.

A council cannot grant its approval for non-physical attendance if to do so would mean that at more than half of the meetings of the council or the committee, as the case may be, in that financial year, a person was taken to be present, in accordance with regulation 14A. It is recommended that such applications to council should be in writing.

A person is taken to be no longer in attendance at a meeting if they cease to be in instantaneous communication with each other person present at the meeting. Any such cessation in attendance of a person not physically in attendance must be recorded in the minutes in the chronological order it occurs. The effect of such a cessation on the quorum requirements must be carefully monitored and action taken as necessary.

For a person to non-physically attend a council or a committee meeting, the council has to approve (by absolute majority) a suitable place for the person to be physically present at during the course of the specific meeting. A suitable place prescribed by Administration regulation 14A(4), is one that is located;

- in a townsite (as defined under section 3(1) of the *Land Administration Act 1997*) or other residential area; and
- 150km or further from the place at which the meeting is to be held, in accordance with the notice calling the meeting.

The minutes of a meeting, where an approval is granted relating to a member's attendance at a council or committee meeting by telephone, video conference or other electronic means, must clearly show that the council has approved of the arrangement and clearly identify the approved suitable place. The minutes must also confirm that such approval was adopted by absolute majority.

**Note:** It is not possible to use regulation 14A to allow an elected member who is outside the State of Western Australia to participate in a meeting.

This is because a 'suitable place' is defined under the Land Administration Act 1997 which only applies to the State of Western Australia. The Department's view is that the definition, 'or other residential area', would have to be interpreted as being limited to a place the same kind as a 'townsite'.

This would mean that a place outside of Western Australia cannot be approved as a 'suitable place' even if it was (in common language) considered to be in a townsite or other residential area, located either interstate or overseas.

Administration regulation 14B(1) provides for a council member to be recorded in the minutes of a council meeting as being present if they are prevented from physically attending a council meeting by fire, flood, storm, lightning or other natural disaster.

This regulation does not depend on the requirement of there being 'a suitable place'. The member must be continuously and simultaneously in audio contact with each other person present at the meeting by telephone or other instantaneous communication means and the member must have the authorisation to be present from the Mayor or President, or from the council (simple majority decision).

**Note:** that a 'place' for the purposes of regulation 14A(4) and the limitations on the granting of approval by council under regulation 14A(2) do not apply to regulation 14B(1).

A person is taken to be no longer in attendance at a meeting if they cease to be in instantaneous communication with each other person present at the meeting. Any such cessation in attendance of a person not physically in attendance must be recorded in the minutes in the chronological order it occurs and the effect of this on the quorum requirements carefully considered and action taken as necessary.

The place where the member prevented by the natural disaster from attending the council meeting is physically present during the meeting, is not a place that is open to the public to attend. Administration regulation 14B(3).

Local governments should adopt procedures for handling applications from elected members seeking approval for attendance at council or committee meetings by telephone, video conference or other electronic means, that include requirements such as applications preferably to be in writing, and for the clear identification of the location of the nominated suitable place.



## 4. Council business and meeting agendas

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### 4.1 Strategic meeting focus

A well-functioning local government is an excellent example of the elected council and its supporting administration working together to produce the best results for the community. The council and the administration come together at meetings, where the council members use their combined knowledge and experience, coupled with the advice of the administration, to make decisions for the good governance and the betterment of the community they serve.

The agendas that drive council meetings, and the minutes that record the decision-making process and the actual decisions, are arguably the most important records produced by local governments.

With well-structured agendas a council can have meetings that are efficient and effective in that they produce good decisions that are made following analysis of sound advice and constructive debate. At the end of such meetings those involved should be satisfied that the local government and community have gained maximum benefit from the valuable time that has been contributed.

A well-structured agenda is directed towards decision-making and will not include superfluous information or items. It is generally agreed that short, sharp meetings directed towards decisions are the ones most likely to achieve good results.

One of the requirements of the Act (s5.56 and Administration Regulations, 19BA; 19B; 19CA; 19C; 19DA; 19DB; 19D) is for a local government to plan for the future of the district. This includes a Strategic Community Plan, Corporate Business Plan, Long Term Financial Plan, Asset Management Plan and Workforce Plan.

At council and committee meetings elected members will generally discuss and debate strategic issues associated with these plans and avoid the detail of operational matters and the day-to-day management of council, which is the responsibility of the CEO.

A strategic meeting focus requires:

- linkages to the strategic community plan, corporate business plan, asset management plan, financial forecast and operational plan;
- well-structured reports and recommendations clearly identifying linkages to the strategic community plan and corporate planning documents and emphasising policy, budgetary legal and risk management implications; and
- use of delegations to free up the full council meeting to devote more time and energy to strategic policy issues.

If strategic planning links cannot be identified on agenda items, it is reasonable to ask why council is discussing or debating such issues.

## 4.2 Delegation – getting the important business done

Using the power of delegation appropriately assists local government to efficiently deal with a wide range of operational matters that are minor, administrative in nature and time consuming.

The use of delegation can free up the full council meeting to devote more time and energy to key strategic policy issues. For example, the council can delegate to the CEO the authority to pay accounts up to its determined amount.

A wide range of powers may be delegated under sections 5.16, 5.17, 5.42, 5.43 and 5.44 of the Act. Section 5.8 of the Act allows for local government to establish committees of three or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

The provisions of the Act which provide for delegations by a local government or its CEO are:

- section 5.16(1), subject to section 5.17 of the Act, provides that a local government may delegate (by absolute majority) to a committee any of its powers and duties, other than this power of delegation;
- section 5.42(1) of the Act allows a local government to delegate (by absolute majority) to the CEO the exercise of any of its powers or the discharge of any of its duties under the Act other than those referred to in section 5.43 of the Act; and

- using the authority of section 5.44(1) of the Act, a CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under the Act other than this power of delegation.

The Act has been framed in a way that determines whether powers and duties can be delegated or not. If the term "council" is used then it is the council itself which must carry out that function. If the term "local government" is used then it may be possible to use delegation. Other legislation, such as the *Bush Fires Act 1954*, has specific provisions covering delegations available to local governments. See the Department's *Operational Guideline No 17 'Delegations'*, for additional information.

### 4.3 Setting the agenda

Ordinary meetings of council should usually consider high level and strategic matters linked to strategic and operational plans. It is essential to prioritise agenda items in a way that identifies the key strategic issues.

A well-structured agenda assists elected members to get the most out of their meetings, enabling them to make informed decisions that come from analysis of sound advice and constructive debate.

The agenda responsibility rests with the CEO, and the agenda sets out the order of business for council's ordinary meetings and committee meetings. An elected member may recommend, through the Mayor/President, for the CEO to have a matter included on a meeting agenda. Councils will normally have a procedure in place for dealing with how such a member request is organised, including timelines and notice and requiring an officer's report with recommendations.

## 4.4 Agenda contents

Recommended order of business for council meeting agendas:

- (a) Official Opening;
- (b) Public Question Time;
- (c) Apologies and Leave of Absence;
- (d) Petitions/Deputations/Presentations /Submissions;
- (e) Confirmation of Minutes;
- (f) Announcements by Presiding Member;
- (g) Reports;
- (h) Elected Members Motions of Which Previous Notice Has Been Given;
- (i) New Business of an Urgent Nature Introduced by Decision of Meeting; and
- (j) Closure of Meeting.

See the Department's '*Agenda and Minutes Guide*' for additional information.

## 5. Before the meeting

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### 5.1 Preparing for meetings

As required under section 5.5 of the Act, each elected member will receive written notice of the meeting at least seventy two (72) hours before the meeting. In the case of special meetings of council less than seventy two (72) hours' notice of a meeting may be necessary.

It is important that elected members allow adequate time to read all of the material and:

- identify if more information is needed to help inform their view and contact the CEO or Mayor or President for assistance before the meeting; and
- identify agenda items where questions of financial or proximity interest or interests affecting impartiality require action and remind themselves of their obligations.

Setting aside sufficient time to prepare for the meeting, pursuing additional information and consulting with stakeholders within the community is essential. It is recommended that for ordinary council meetings, members allocate specific preparation time in their diaries once meeting dates have been set.

Good time management practices and habits for elected members, such as the following, will assist their meeting preparation:

- develop a system for filing of the e-mails, agendas, reports, and correspondence received for ease of access, recovery, and regular review for archival or disposal;
- prioritise what needs to be read, responded to, followed up, and scheduled into the diary; and
- arrange with the CEO for training in skill development courses, such as speed reading, public speaking, meeting procedure, record keeping or time management.

## 5.2 Closed council or committee meetings

Most council and committee meetings to which a local government power or duty has been delegated, will be open to the public. However section 5.23(2) of the Act states that a local government may resolve that a meeting or part of the meeting be closed to the public, only if its elected members consider it necessary to deal with any of the following reasons:

- (a) *a matter affecting an employee or employees;*
  - (b) *the personal affairs of any person;*
  - (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;*
  - (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;*
  - (e) *a matter that if disclosed, would reveal —*
    - (i) *a trade secret; or*
    - (ii) *information that has a commercial value to a person; or*
    - (iii) *information about the business, professional, commercial or financial affairs of a person,*  
*where the trade secret or information is held by, or is about, a person other than the local government;*
  - (f) *a matter that if disclosed, could be reasonably expected to —*
    - (i) *impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or*
    - (ii) *endanger the security of the local government's property; or*
    - (iii) *prejudice the maintenance or enforcement of a lawful measure for protecting public safety;*
  - (g) *information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
  - (h) *such other matters as may be prescribed.*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

LGA section 5.23 (2)(3)

If these matters are known in advance, it should be clearly listed on the agenda as a matter that will be considered while the meeting is closed to the public. At the time in the agenda, the council must resolve to close the meeting to the public.

Political embarrassment to council or elected members is not in itself a justifiable reason to close a meeting.

### 5.3 Items of interest to the public

Section 5.25(1)(j) of the Act requires that a local government is to ensure that notice papers and agenda relating to any council or committee meeting and reports and documents which are to be either tabled at the meeting, or have been produced by the local government or a committee for presentation at the meeting, and have been made available to members of the council or committee:

- are available for inspection by members of the public from the time the notice papers, agenda or documents were made available to the members of the council or the committee.

Each council has the capacity to determine the order that the agenda items will be dealt with. It is recommended that council meetings should endeavour to proceed with the order of business as detailed on the agenda of the notice of the meeting. This is important from the point of view of members of the public who attend council or committee meetings for a specific agenda matter. The council's Standing Orders usually prescribe the order of business and the process to change that order at the meeting.

### 5.4 How to debate

The purpose of debate at meetings is so that elected members can:

- give information that will help move the meeting closer to a decision about the motion that is before it; and
- influence the meeting to make a certain decision about the motion that is before it.

It is necessary for elected members to structure any intended debate material in preparation for any agenda matter they wish to speak in support of, or against. Elected members should have a clear idea of their own arguments and which examples they will be using to support their arguments. There should be a clear division between arguments put forward to support their position and to let the other members know when they are moving from one argument to the next.

This sign posting is an important debating tool for elected members to acquire and develop. It must be remembered that although the elected member knows exactly what he or she is saying, the meeting has never heard it before so the message must be logical (makes sense), clear and easily understood by the other members.

Rebuttal of argument, or points raised at the meeting by a former speaker, or rebuttal of the arguments that are out in the public arena concerning the matter before the meeting, should be organised in the same way. Each argument or point made that the elected member is opposed to should be rebutted (challenged) in turn. This can be done by spending a little time on each and then moving on. This will help weaken the opposing view and strengthen the elected member's case. Rebuttal should never personalise.

There is no one size fits all way of taking part in a meeting debate and presenting an argument at a local government meeting. Elected members should strive to develop a manner or style that is natural to them. There are many books, courses and other aids available on public speaking and debating. However, the following proven practical tips should be of help to elected members:

- endeavour to be calm and in control prior to rising to speak. The practice of relaxation techniques, such as controlled deep breathing and body muscle flex and release, are good habit options for elected members to consider adopting;
- address the Presiding Member, maintain eye contact to capture and hold the meeting audience's attention;
- exploit the variety of options available through the voice, such as tone, emotion, volume and speed. For example, loud emphasis to make a point, or use of a prolonged pause for effect, or a passage of quiet speaking to draw the audience in. Ensure any microphone provided for use is turned on and in the best position for voice projection;



- make the body work for you and not against you. Good posture and appropriate body language will assist in presenting and debating confidently at meetings. Body language can be described as a form of mental and physical ability of human non-verbal communication consisting of body postures, gestures, facial expressions, and eye movements. Humans send and interpret such signals consciously and subconsciously;
- be aware of body language. Just because something is said doesn't mean it will be matched by non-verbal communication. Body language may provide clues as to the attitude or state of mind of a person. For example, it may indicate sincerity, nervousness, aggression, attention, support, or contempt;
- avoid bad habits that will distract and detract an audience from what is being said. Do not indulge in bad habits when speaking, such as playing with hair or a pen, bouncing up and down on the balls of the feet, continued use of 'ah' or 'um' while gathering thoughts, or placing hands into pockets;
- if material in support of the debate argument has to be read, remember to slow down the speech pace and read with variety of voice, to give it life;
- plan any argument case well ahead of the scheduled meeting. Knowledge of the material will provide added confidence during a debate. It is important to consider that other elected members might have a contrary view and position. Time needs to be devoted to consider what others might be thinking to develop a few main points from their perspective and do research on that;
- mean what you say. If you have passion, you will be more convincing;
- adapt to the meeting debate. Be a keen listener. Evaluate what other members are saying. There are many things that could happen during a debate. Members must be alert and involved and able to adapt fast if need be;
- be aware of the tone used in a debate. Confidence is important, but do not be condescending. Elected members must remain as confident, patient, in control and passionate as possible;
- be respectful. Rational debate is about the issues and not the person who has spoken. Do not let personalities enter into the debate. Just because a fellow member has opposing viewpoints doesn't mean a loss of respect for the other member. Everyone has different point of views, and it isn't appropriate to denigrate or to be disrespectful to another member because of it; and

- when given the floor during debate by the presiding member;
  - restate the motion;
  - state your position on the motion, then;
  - make your points by stating your first point and giving evidence of why this point is valid;
  - state your next point and give evidence of why this point is valid;
  - continue on until you have made all your points;
  - quickly **summarize** all your points; and
  - finish by saying how you want the other members to vote on the motion.

## 6. Chairing (Presiding) meetings of council

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### 6.1 Chairing (Presiding) the meeting

The chairing ('presiding' as the Act refers to it) of council meetings is a formal process. This is because of the importance of local government meetings, and to ensure fairness and accountability.

One of the roles of the Mayor or President is to preside (as the 'Presiding Member') at meetings of council (section 2.8(1)(a) of the Act). Under section 2.9 of the Act if the Mayor or President is not available or unable or unwilling, or if the office is vacant, the deputy Mayor or President may perform the role of the Mayor or President.

In the case of a council committee (section 5.12 of the Act) members of a committee may elect a Presiding Member from amongst themselves and may also elect a deputy presiding member.

### 6.2 Important attributes of a meeting Presiding Member

Each elected member brings to the meeting their own individual personalities, values, abilities and experiences. An experienced presiding member can, through the skilful application of meeting procedures, create a co-operative and productive forum.

Important attributes of an effective Presiding Member include being:

- fair and reasonable;
- objective and impartial;
- firm but friendly;
- confident and considerate;
- tactful and courteous;
- a demonstrated leader;
- a quick thinker;
- knowledgeable about Standing Orders; and
- well versed in meeting procedure and policy development.

## 6.3 Duty of the Presiding Member

It is the duty of the Presiding Member **to preserve order and ensure proceedings are conducted in a proper manner by:**

- determining that the meeting is properly constituted and a quorum is present at all times;
- informing elected members as to the business and objectives of the meeting;
- providing a forum for the exchange of views and ideas on key issues before the council;
- confining discussion to within the scope of the meeting and within reasonable limits of time;
- initiating or managing any information, technical advice or guidance input into the meeting from the CEO, or through the CEO, from other council employees at the meeting;
- ensuring that proposed motions and amendments are legal, in order, clear and able to be implemented;
- clarifying for discussion and decision any proposed motion that has been moved for the consideration of the meeting;
- deciding points of order and other incidental matters that require a decision;
- maintaining control and preserving order at the meeting; and
- ensuring overall public interest is maintained.

The Presiding Member is also **to ensure the decisions of the meeting are respected and properly handled by:**

- keeping discussions to the subject being discussed and preventing irrelevant and repetitive discussions;
- putting relevant questions to the meeting and conducting a vote (and where votes are tied at a council or committee meeting, casting a second vote);
- declaring the result of a vote;
- ensuring that an individual's vote or all the members' votes are recorded if requested by a council or a committee member;
- ensuring that the record of minutes of the meeting proceedings is kept up to date;

- adjourning the meeting when the meeting circumstances justify that course; and
- declaring the meeting closed when business is complete.

## 6.4 Promoting constructive and inclusive debate

Promoting constructive and inclusive debate is crucial to influencing the quality of decision making of council. A presiding member must be neutral and avoid letting personal attitudes, either positive or negative, influence their role. A Presiding Member can **assist in promoting diverse and balanced debate by:**

- encouraging and allowing all elected members to contribute;
- regulating discussion to reduce the possibility that a small number of members may unreasonably dominate discussion;
- suggesting, where appropriate, a motion or an amendment to a motion that expresses the views of the meeting;
- inviting elected members who offer ideas to draft them in an appropriate form of motion;
- ensuring ambiguities in motions and amendments are clarified;
- using open ended questions to elicit more information;
- focusing discussion on content rather than personalities; and
- terminating any background discussions between elected members while another member has the floor.

## 6.5 Keeping order

It is the duty of the Presiding Member to preserve the right of all elected members to participate in the meeting. Early intervention usually reduces issues and minimises disorder. If the presiding member maintains a calm demeanour and manner and directs the meeting to the objective of the item and what council needs to achieve, many potential conflict situations can be avoided or contained. A member can alert the meeting's Presiding Member to an alleged incident that could be considered a point of order in relation to conduct.

The Mayor or President as the presiding person at council meetings carries out a pivotal role by facilitating and encouraging all points of view to be expressed and respected. This will assist an elected member with a motion or an expressed opinion that might not be supported by the majority of other members, to be satisfied that they have been given a fair hearing and that the process through the meeting is open and transparent.

Section 5.103 of the Act requires all local governments to prepare and adopt a code of conduct to be observed by its council members, committee members and employees. Respect for and compliance with a council's adopted code of conduct helps the presiding person to ensure promotion and maintenance of good order at all meetings of the council.

Instances where an individual member of the public, or a vocal opposition group attends and behaves inappropriately during a council meeting and refuses to comply with the directions of the presiding member, can be very stressful and a distraction for the elected members, council employees and others in attendance.

Fortunately, experience has shown that disruptive behaviour by members of the public at meetings of local governments tends to be of short duration and while members and employees may have been made uncomfortable, the business of the meeting could generally proceed.

The Department's Operational Guideline No 06: '*Disruptive Behaviour by the Public at Council Meetings*' should be consulted for additional information. It provides advice on the options available to councils when members of the public exhibit ongoing disruptive behaviour in meetings.

## 6.6 Role of the CEO and employees at meetings

The CEO's responsibility, under section 5.41(b) of the Act, is to ensure the provision of unbiased, relevant, professional advice and information to elected members for their decision making purposes. This is achieved at meetings principally by written reports that become a very important part of the agenda for council and committee meetings, and also provide the basis for the decisions and the meeting minutes of the local government.

The CEO usually attends council meetings but is not permitted to take part in debate or to vote. Most local governments also have other senior employees attend meetings for the purpose of providing information, technical advice, or guidance on the agenda matters.

The Presiding Member is responsible for initiating or managing any information, technical advice or guidance input into the meeting from the CEO, or through the CEO, from other council employees present at the meeting. This is seen as an effective way of assisting the elected members in their decision making at meetings.

The attendance of the CEO and senior employees at a meeting should not be used as an opportunity for elected members to attempt to draw the CEO, or an employee into the process of any meeting debate. Elected members must not ask employees at a meeting for their personal opinion on a matter before the meeting. Similarly, matters that are not on, or that do not reasonably tie in with the agenda papers, should not be raised by elected members for the CEO or other employees to respond to.

## 6.7 Taking a break during a meeting (adjournment)

A useful approach to defusing the situation if disorder occurs at either a council or committee meeting, or a public meeting called by council, is to have a brief meeting adjournment.

Most Standing Orders make provision for the Presiding Member to adjourn the meeting for a defined period of time if disorder occurs. This is achieved by the Presiding Member making the declaration and physically vacating the chair.

The Department's *Operational Guideline No 6: 'Disruptive Behaviour by the Public at Council Meetings'* provides advice on options available to councils when members of the public exhibit ongoing, disruptive behaviour at meetings.

## 6.8 Order of business

At times it may be necessary to consider altering the order of business to ensure important and urgent matters can be adequately dealt with. Changing the agenda to alter the order of business requires a motion to be passed at the meeting – that is, council should move and record a procedural motion to that effect.

\*See also the Department's '*Preparation of Agendas and Minutes Guide*' items 3.2 and 5.2.3.'



## 7. Financial and proximity interest and interest affecting impartiality

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The Act places specific obligations on both elected members and employees who have financial, proximity or impartiality interest in an item before a meeting. These provisions support the principle that elected members and employees must be open and above reproach.

### 7.1 Direct and indirect financial interests and proximity interests

A financial interest occurs if the member or employee, or a person closely associated with the member or employee (such as a spouse or child living at home or the person's employer) has a matter before the local government which, if dealt with in a particular way, will result in a financial gain or loss to the member, employee or closely associated person.

The 3 key elements of this definition are:

- there must be a reasonable expectation of a financial gain or loss (it should not be too remote or speculative);
- the matter must be capable of being dealt with by the local government (such as by giving an approval or rejecting a recommendation); and
- the manner in which the matter is dealt with could result in financial gain or loss to the elected member, employee or closely associated person.

For council or committee members, the main obligation is to disclose the nature of the financial interest and, on some occasions, the extent of the interest when a financial interest is held in an item before a meeting. Employees are required to disclose any financial interest when providing advice or a report to a meeting.

The Act exempts certain financial interests from the obligation of disclosure (such as interests which arise from the imposition of a rate). This enables elected members to participate fully in the decision making process on these exempt issues. The decision about whether an interest is a financial interest which should be disclosed falls to the elected member or employee. Nobody can direct anybody else to disclose, or to disclose for someone else.

In particular, elected members should monitor their meeting agendas to determine whether a financial interest applies to a particular item. This will allow them to identify whether the interest is an exempt interest which need not be disclosed and decide, in cases where an interest exists, whether they have the right under the Act to seek approval from the Minister or the meeting to participate in the item where the interest is held. Otherwise, having disclosed a financial interest in an item, the elected member is required to leave the meeting when that item is considered. The penalties for not disclosing a financial interest are significant.

A proximity interest exists if the elected member, or a closely associated person, has an interest in a matter that concerns:

- a proposed change to a planning scheme affecting land that adjoins the person's land;
- a proposed change to the zoning or use of land that adjoins the person's land; or
- a proposed development of land that adjoins the person's land (development refers to the development, maintenance or management of the land or of services or facilities on the land).

The existence of a proximity interest is established purely by the location of the land. A financial effect does not have to be established.

For more detailed information, see the Department's Operational Guideline No 20 'Disclosure of Financial Interests at Meetings'.

## 7.2 Impartiality interests

In addition to financial interests, elected members are required to disclose interests which would also give rise to a reasonable belief that the impartiality of the member could be adversely affected when making a decision on an item. Impartiality interests should be disclosed either in writing to the CEO before the meeting or verbally at the meeting immediately before the item which generates the interest is considered.

As with financial interests, the impartiality interest disclosure is made immediately prior to the item's consideration and is recorded in the minutes. The disclosure by an elected member of an impartiality interest does not stop them discussing, or voting on an item.

In failing to disclose an impartiality interest, an elected member contravenes a rule of conduct and in doing so commits a minor breach. The *Local Government Rules of Conduct Regulations 2007* focus on providing avenues for dealing with allegations specifically concerning elected member misconduct. Under this legislation, minor breaches may be referred to the Standards Panel.

For more detailed information, see the Department's *Operational Guideline No 1 'Disclosure of Interests Affecting Impartiality'*. Regulation 11 of the Rules of Conduct regulations describes the requirement to declare an interest that could, or could reasonably be perceived to adversely affect the impartiality of an Elected Member arising from "*kinship, friendship or membership of an association*".

This type of interest is distinct and separate from the aforementioned interests. Once a declaration has been made, the elected member may continue to participate in discussion and vote on the matter before Council. However, penalties apply for the failure to declare an impartiality interest.

## 8. Meeting conventions and technicalities

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Elected members need to be aware of the importance of observing meeting procedures. Decisions made in council meetings are legally binding. For this reason decisions must be made in accordance with the correct meeting procedure. Failure to follow the correct procedure could provide an opportunity for the decision to be challenged. The challenge would be on the grounds that the council failed to observe the due process in making the decision and therefore, it is not a legally binding decision.

Most local governments have adopted a local law to provide for rules and guidelines that apply to the conduct of their council, committee and electors' meetings. All meetings must be conducted to comply with the Act, regulations and the council's own adopted meeting local laws (referred to as 'Standing Orders').

### 8.1 Quorum

The quorum for a meeting of a council or a committee is **at least 50%** of the number of offices (whether vacant or not) of member of the council or the committee. (s 5.7 and 5.19 of the Act; Administration regulation 8). A quorum is the minimum number of elected members who must be present for a meeting to be considered valid.

If a quorum has not been established within 30 minutes after a council or committee meeting is due to begin then the meeting can be adjourned. The adjournment procedure is prescribed in Administration regulation 8.

When a meeting is not held due to the lack of a quorum, a record of the names of persons who attended and the reason the meeting did not take place must be kept in the minute book. See the Department's '*Agenda and Minutes Guide*', items 3.3.1 and 5.2.2 .

Arrangements for telephone or electronic attendance at meetings may be permitted under the Act and if granted, elected members participating in teleconferencing for a given meeting are to be included in the quorum. It is important to note:

- at all stages of a meeting there must be a quorum present;
- a member permitted to be in attendance at a meeting by telephone, video conference or other electronic means is taken to be no longer in attendance at a meeting if they cease to be in instantaneous communications with each other person present at the meeting;
- any member of the council can, as a point of order, draw attention to the lack of a quorum;
- a call for a check on the quorum should be addressed to the Presiding Member; and
- the call for a quorum check takes precedence over any other business as it is not possible to continue a meeting without a quorum.

A member who has made a disclosure of financial interest in a matter before council and has left the meeting cannot be counted in the quorum. In the situation that the absence of this member means that there is no longer a quorum, the Presiding Member should adjourn the matter to a later meeting, recall the member who had left the meeting because of financial interest or a conflict of interest, and continue the meeting. The matter subject to the disclosure of interest should be considered at a later meeting when a quorum is present and maintained.

## 8.2 Motions and resolutions

When the council decides to form a view on a specific issue it does so by formally debating and adopting a 'motion' that expresses the majority view of the elected members.

To arrive at a decision (resolution), first a 'motion' or proposition is placed before council inviting the members to determine their position with regard to the issue. A member may propose a motion for consideration by council or a committee.

The 'motion' must be moved and seconded before council can debate the matter. A 'motion', once debated and if adopted by the council, becomes a 'resolution' of council. The important distinctions are:

- a 'motion' is a proposal to be considered by council at a meeting. It is a request to do something or to express an opinion about something. A motion formally puts the subject of the motion as an item of business before the council.
- a 'resolution' is a motion that has been formally adopted by a majority of elected members at the meeting. While in practice it means the 'council decision' the word 'resolution' also indicates the process by which the decision was arrived at and made.

It is possible to advise the council of an intention to put forward a motion (notice of motion) that relates to a motion currently before the council. However, the Presiding person cannot accept the new motion before the first one is decided.

If there is no seconder, then there is no debate on the motion and it does not progress (lapses). The meeting moves to the next item of business. At any time there can only be one proposed motion before the meeting.

There are two types of motions:

- **formal motion**

A 'formal motion' is a proposition that requires or acknowledges action that has to be done or has been done. It can also state a view or a preferred position on a particular issue.

A small number of 'formal motions' are routinely presented for consideration by a council meeting – for example the confirmation of minutes.

- **procedural motion**

Procedural motions are a set of motions that can be employed in specific ways to control the conduct of meetings. They are about meeting procedure and their use can change the course of a meeting. Procedural motions are dealt with in detail in the next chapter.

### 8.3 Drafting a formal motion

As a 'resolution' is the formal adoption by council of a 'motion' accepted and debated by council, it is important to consider the following conventions when preparing a motion. Only motions which are clear, unambiguous and comprehensible should be accepted by the presiding member. For more detailed information, see the Department's *Operational Guideline No 7: 'Clarity in Council Motions'*.

The following recognised conventions apply when drafting a motion:

- start with the word 'that';
- use the third person and avoid using the first person;
- clearly indicate the matter, issue or subject of the motion;
- clearly indicate the intention of the council;
- the language is clear and unambiguous;
- the terms are plain and non-technical and can be understood by elected members and the public;
- constructed simply and if necessary, set out in sections that can be clearly identified by letters or numbers;
- indicate proposed action or reflect agreed views on a particular issue;
- clearly indicate who is responsible for any action, and if appropriate, expected time of action and outcome, and reporting back requirements; and
- it is not a re-introduced motion which has already been rejected and would therefore require specific treatment.

The following example of an adopted resolution has many of the necessary features:

*'That council resolves that the CEO writes to the State Treasurer to seek long-term funding in the upcoming State budget for regional transport infrastructure investment.'*

All reports to Council or a Committee will include a draft recommendation. In most cases this will become the motion which will be put to Council for debate. However, a councillor may choose to move a motion other than the Officer's recommendation.

## 8.4 Motion not accepted by the Presiding Member

The guiding rule is that no motion should be put or passed unless it is within the scope of the notice of meeting and the agenda (order of business). It is the presiding member's role to ensure that motions are within the meeting's jurisdiction. Therefore the presiding member would be expected to rule a motion as out of order if it:

- is unclear and vague in its language;
- is the direct negative of a motion just passed by the meeting;
- is inconsistent with a formal motion just adopted;
- is unnecessary in that it proposes a course of action or policy already resolved upon by the meeting;
- proposes an action that is unlawful;
- is a matter that was subject to a previous amendment or a rescission motion which was defeated within the period of time specified in the Standing Orders;
- is outside the jurisdiction of the council;
- contains defamatory statements; or
- is vexatious and proposed only as a way to obstruct the orderly transaction of business.

If the meeting is considering a motion which is difficult to comprehend and of a complex structure, the presiding member has the discretion to seek the agreement of the meeting to separate the constituent parts of the motion. The meeting can also agree to deal with them in their separate parts as if they were separate motions.

## 8.5 Rules of debate

The rules of debate should be included in the council's Standing Orders or meeting procedures. Ideally the rules of debate:

- create opportunity for all views on the motion to be presented;
- recognise that within the meeting there will be a diversity of opinion; and
- give elected members an opportunity to debate and to persuade their fellow elected members.



## 8.6 Mover

The mover proposes the motion. The Presiding Member will look to see if there is support for the motion, by seeking a seconder for the motion. The mover has, if the motion is seconded, the right to speak to the motion or reserve the right to speak later.

The mover has, once debate on the motion has concluded, a right of reply. No new arguments or material should be argued during the right of reply. The exercise of the right of reply closes off the debate and the meeting goes to the vote.

## 8.7 Secunder

The Presiding Member will call on the mover to speak to the motion. After the mover has spoken the seconder has the right to speak to the motion. This right can be reserved to a later part of the debate. Before deferring to a later stage of the debate the seconder should bear in mind the following:

- there is no right of reply;
- a procedural resolution can cut off the debate before the right is exercised;
- it is not possible to withdraw support for the motion; and
- members cannot move amendments to motions they have seconded and spoken to.

## 8.8 Presenting the contra position

After the mover and seconder have exercised their rights of address the debate moves on. Those elected members who wish to speak against the motion now have their opportunity to address the meeting.

Members are then asked to speak for or against the motion, usually in the order of one speaker for and one speaker against the motion.

A mover of a motion may be permitted to explain uncertainties in the motion. Any explanation given should be limited to clarifying issues, not on extending debate.

## 8.9 Closing the debate

The close of debate is reached when any of the following occurs:

- speakers from both sides of the debate have addressed council consecutively;
- the time allotted has expired;
- the number of speakers for and against was limited by agreement and has been reached; and
- a procedural resolution to close the debate – for example, ‘I move that the question be now put’ – has been proposed and has received majority support.

Upon the decision to move to close the debate, the mover now has the ‘right of reply’. This is the final step in the debate.

## 8.10 Right of reply

Once the mover has exercised the ‘right of reply’ all further debate on the substantive (main) motion ceases. The Presiding Member should not call the mover until the time to close off the debate has emerged. In exercising the ‘right of reply’ the following conventions should be observed:

- it can be waived and the meeting can go straight to the vote, particularly if there have been no speakers against the motion;
- the purpose of the ‘right of reply’ is basically to respond to any points raised in the debate, and to present a final brief summary of the case for the motion;
- new arguments cannot be introduced during the ‘right of reply’;
- at the end of the right of reply the motion is put to a vote
- if the majority supports the motion it becomes a ‘formal resolution of council’ and as such is the council’s official position;
- the motion fails if it does not receive the majority support and the motion lapses unless revived at a later stage; and
- in the event of a tied vote at a council or committee meeting, the person presiding is to cast a second vote.

## 8.11 Amending a motion

Once a motion has been formally accepted by the meeting, a member can propose an amendment to the motion. A proposed amendment moved by a member must be seconded by another member. The proposed amendment:

- must clearly relate to the motion under consideration; and
- must be proposed before the debate on the motion has been concluded – that is, it is necessary to propose an amendment before the mover of the motion has exercised their right of reply.

The Presiding Member needs to pay particular attention when amendments are requested to maintain the continuity and integrity of the debate. Important points regarding amendments:

- notice of amendment is not usually required;
- the amendment is subject to the same requirements as a motion, in that it must be moved and then seconded, before the formal rules of debate are applied;
- the proposed amendment must be relevant to the motion;
- an amendment cannot be accepted if it is a direct rebuttal of the motion it seeks to amend;
- an amendment should not add or detract from the motion so as to render the motion radically different from the originally accepted motion;
- if an amendment is substantially the same as an earlier rejected amendment on the motion, it should not be accepted;
- a proposed amendment that is in opposition to an amendment already accepted should not be accepted;
- in the situation where a number of amendments have been moved and seconded, it is important that they should be considered in due succession, thereby ensuring practicality of the motion;
- each amendment is separately considered and voted on;
- if there is a proposition to amend an amendment, subject to the secondary amendment being moved and seconded, it will be dealt with before voting on the principal amendment; and
- once an amendment has been moved and seconded it cannot be withdrawn without the consent of the meeting.

## 8.12 Debating an Amendment

In practice, the formal rules of debate apply to the handling of amendments:

- debate is allowed only in relation to the amendment and not the main motion – which is suspended while the amendment is considered;
- the mover of an amendment has no right of reply and can only speak once to the amendment;
- the meeting can only debate and vote on one amendment at a time;
- it is important the presiding member clarifies what is being debated and the specific procedures so there is no confusion regarding the debate on amendments;
- if the vote results in approval of the amendment, the terms of the original motion are varied accordingly. In the event of another amendment being moved, the same procedure is repeated;
- if the amendment is rejected, the original motion (or that motion as altered by previously adopted amendments) is restored and is open to debate, subject however, to the moving of further amendments; and
- when discussion ceases, either because no further amendments are forthcoming, or because debate has been terminated by a procedural resolution, the motion is put to the meeting.

Upon concluding the debate on the motion and the accepted amendments, it may be necessary to review the order and numbering of the parts of the resolution to ensure it fits together in a coherent way. It may be necessary to reorder the sequence to ensure the motion makes sense. It is vital that the motion as structured and resolved by the council or committee is accurately recorded in the minutes of the meeting.

**Note:** Where the resolution passed is significantly different from the written recommendation of a Committee or an employee Administration Regulation 11 requires the minutes to include a written reason for the changes.

## 8.13 Withdrawing motions

The mover of a motion may request that the motion be withdrawn any time prior to the vote being taken. If such a request is received the Presiding Member will call the meeting to order (all debate is suspended) and ascertain whether the seconder of the motion agrees with the withdrawal request. If the seconder agrees the matter is put to a vote, without further debate. In any elected member votes against the withdrawal, the motion must proceed and cannot be withdrawn.

A request to withdraw a motion can be made even if an amendment to the substantive motion is being debated. The Presiding Member will call the meeting to order and deals with the withdrawal request. If any elected member votes against the withdrawal, the motion remains in effect and debate on the amendment continues. Once the amendment has been dealt with, debate continues on the substantive motion.

## 8.14 Foreshadowed motions

A foreshadowed motion is a proposed suggestion to the meeting, usually raised during debate, that there is an alternative proposal should the motion being debated, be lost. Foreshadowed motions are usually noted by the Presiding Member and if the vote is lost, the member who proposed the foreshadowed motion will be invited to move their foreshadowed motion. Once moved the motion is debated in the normal manner.

## 9. Procedure and Directions

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### 9.1 Procedural motions

Procedural motions are a specific set of motions to control the conduct of the meetings and aid the effective transaction of business.

Procedural motions fall into two categories:

- permanent – procedural motions that dispose of the motion permanently; and
- temporary – procedural motions that temporarily set the matter aside without a vote being taken.

### 9.2 Permanent procedural motions

#### 9.2.1 That the question be now put – the closure

The closure (or gag) is a motion used when it is felt the debate has gone on long enough and should be concluded by taking a vote. The procedural motion can be moved in the form, 'I move that the question be now put'. The presiding member may call for a seconder to show there are others present who wish to terminate the debate.

At this stage the presiding member should proceed to take the vote on the procedural motion.

Important notes about this closure motion follow:

- the closure motion may be moved by any person who has not already spoken in the debate (as allowing a person who has already spoken in the debate to move closure would confer an unfair advantage by allowing them to close down the debate after they had their say);
- the closure motion may be moved while another speaker is on their feet and if carried, immediately stops debate at that stage;
- the mover of the closure motion may not speak to it and the seconder does not speak other than to formally second the motion;
- no debate or amendment is permitted; and

- if the closure motion is successful, the presiding member should:
  - in the case of an amendment, proceed to the vote
  - in the case of a motion, permit the mover of the substantive motion to exercise the right of reply before calling for the vote (**note:** only for substantive and not for amendments to a substantive motion)
  - if the closure motion is defeated, the debate continues from the stage at which it was interrupted and a speaker standing when the procedural motion was moved is permitted to continue and can use up the balance of their permitted time.

Subject to Standing Orders, a closure motion may be moved again later in the debate. However, a later closure motion may:

- not be moved by the person who moved it originally; or
- not be moved by a person who has previously spoken in the debate.

### 9.2.2 That the meeting proceeds to the next item of business

This procedural motion is usually stated in the form; *'That the meeting proceed to the next item of business.'*

Important points about 'proceed to the next item of business' include:

- the mover of the closure motion may speak to it, however, the seconder does not speak other than to formally second the motion;
- if accepted, there is no debate or amendments to the motion;
- it cannot be moved by a member who has already spoken to the motion;
- it cannot be proposed while a member is speaking to the motion or an amendment and must therefore be moved at the close of any address;
- if moved during the course of an amendment or a procedural motion and the motion is carried, the effect is to put aside the amendment or the procedural motion as if it was defeated;
- if the motion is not carried it can be resurrected at a later stage of the debate, subject to any limitations set out in the council's Standing Orders;
- if carried, debate on the motion ceases and the meeting moves to the next item of business and no vote is taken on the motion; and
- if not carried, the debate carries on as before.

If the motion is carried the item is dropped for the entire meeting unless re-introduced as a Notice of Motion. The matter need not be further considered.

### 9.3 Temporary procedural motions

The most frequently used temporary procedural motions are those aimed at closing debate on a matter before the meeting. There are a number of reasons why a member may wish to terminate debate on a matter. For example, the member may be of the view that:

- the motion under debate has been debated long enough and it is not worthwhile pursuing the issue any further at this meeting;
- the matter should be deferred to another time to permit more consideration; or
- further time should be provided to seek additional information on the matter.

A temporary procedural motion is a useful device if there is a contentious matter before the meeting that the members want to delay debating or adopting a position on. The procedural motion, if carried, places the matter on hold until specific steps are taken to place it back on the agenda again.

#### 9.3.1 That the debate be adjourned

If the meeting wishes to temporarily set aside the motion so that it may be revived at a later stage a member should move; *'That the debate be adjourned'*.

The details or conditions to be met before resuming the debate on the motion should be expressly stated in the procedural motion – for example, adjourn the debate until a particular council or committee meeting date – or until more information is available.

Important points about *'That the debate be adjourned'* include:

- the mover of the adjournment motion may speak to it, however, the seconder does not speak other than to formally second the motion;
- the presiding member has no discretion to refuse it;
- it may not be moved by a member who has participated in the debate on the motion;
- amendments to the motion are permissible, provided that the amendment clarifies the details at the resumption of the debate on the motion;
- there is no debate and no right of reply to the mover;



- if carried, it has the effect of temporarily stopping the debate on the motion;
- the matter can be adjourned to a later part of the meeting;
- when the debate resumes, it is as if there was no break and therefore members who have already participated in the debate are subject to the normal rules of debate;
- on resumption of the debate the convention is that the mover of the procedural motion has the first opportunity to speak; and
- a motion to adjourn the debate can be trumped by a motion to adjourn the meeting.

Moving a procedural motion to adjourn the debate can be very useful when:

- more information and/or more time is needed to consider the issue and develop other options
- it is likely that coming events may change the situation
- a wider range of views beyond the meeting are necessary, or
- pressure of time dictates bringing forward other urgent business.

### **9.3.2 That the matter be referred to a committee**

A matter before the council can be temporarily put aside by the simple device of the procedural motion; *'That the matter be referred to a committee.'*

There can be a number of reasons why a council may wish to adopt this approach. For example, the council may not have the time to do the issue justice and may be of the view that the issue would be better dealt with in detail by a smaller number of members in committee. It is a very practical device that can provide an opportunity for members to examine in more detail all aspects of an issue.

Before referring the matter to a committee, it is advisable to give some consideration as to the terms of reference and the composition of the committee. It may be possible to refer the matter to a standing committee of council. The important points listed in section 9.3.1 above should also be noted as applicable for this referral motion.

### 9.3.3 That the meeting now adjourn

The majority of members present at a meeting of a local government may adjourn the meeting to a later hour on the same day or to a later day. An adjournment may occur when:

- the meeting is disorderly and order cannot be restored;
- members present do not constitute a quorum; or
- time runs out, such as when a pre-determined meeting close time is reached.

Administration regulation 8 states that if a quorum is not present within 30 minutes after the scheduled start time for a meeting, the meeting may be adjourned to another day or time by a majority of the members present. The order in which authorised persons can adjourn a council or committee meeting due to the lack of a quorum is:

- the presiding member;
- the deputy presiding member if the presiding member is not present;
- a majority of members present if neither presiding member is present;
- a single member if no other member is present; or
- the local government's CEO, if no member is present.

The meeting must be adjourned by resolution. The mover of the now adjourn motion may speak to it, however, the seconder does not speak other than to formally second the motion. It is desirable that the resolution also specifies the arrangements for conducting the meeting at a later time – for example; *'Council resolves that the meeting be adjourned until 2:00pm on day/date, at the Council Chamber.'*

The motion cannot be moved by a member who has already spoken in the debate before the meeting, and a member cannot move this motion more than once in any meeting.

If carried, debate ceases and re-starts at the same point as it left off, unless a vote is taken to change this procedure. If the adjournment is for the meeting to continue on another day, a Notice of Meeting to re-convene an adjourned meeting should be given as soon as practical.

### 9.3.4 That a member no longer be heard

A successful motion that a nominated member be no longer heard prevents the member from speaking further on the current substantive motion. The mover is not permitted to speak to it, and the seconder is only permitted to formally second it. If the member prevented from speaking was the mover to the substantive motion, their right of reply before the vote is taken is not affected.

### 9.3.5 Points of order

If a member considers that there has been an irregularity in the conduct of the meeting – for example, a member introduces irrelevant matters, it can be brought to the attention of the presiding member by calling; *'point of order.'*

The presiding member must permit the member calling the point of order to state what Standing Order, code or procedure they believe has been infringed. A point of order takes precedent over all other business until it is determined. The presiding member should immediately rule, upholding the point of order, or overruling it.

Points of order may arise where a member believes there may have been a breach of any local law or any written law.

### 9.3.6 Challenging the presiding member's ruling on a point of order

When a member disagrees with a ruling on a point of order it is possible to move a motion of dissent. The purpose of the motion of dissent is to seek to correct what may have been a mistake of fact or interpretation on the part of the presiding member. Therefore, when voting on the motion, consideration should be given to the procedural matters, not the popularity of the presiding member.

The procedural motion is stated in the following terms, *'That the ruling of the presiding member be disagreed with.'* No further business should be transacted until the dissent motion is resolved.

It is important to remember the following:

- only the mover of the motion and the presiding member can speak to the motion; and
- there is no right of reply.

If the meeting supports the motion of dissent:

- the business is resumed and the presiding member accepts the reversal of the point of order; and
- any business or motion that has been ruled out of order by the presiding member is re-instated.

## 9.4 Procedural motions in general

Any motion that seeks to change the order of business or alter the formal rules of debate falls within the category of a procedural motion. Examples of this, as contained in a council's Standing Orders, include motions closing a meeting to the public, and suspending and then resuming Standing Orders.

## 10. Decision Making

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A decision of council is the result of democratic debate. The final decision – the resolution of council – is the result of open voting by the majority of elected members at the meeting. Once a collective decision is made, all members must abide by the decision.

Collective responsibility requires members of a council or its committees to support publicly all decisions made by council even if they do not agree privately.

The Act's principles establish that the primary accountability of a local government is to its community, and that the decisions of the local government must be made with regard to the benefit of the entire local government area. Accordingly, there are legislative requirements associated with a member's capacity to participate in decision making (voting) when there is financial interest or conflict arising from an impartiality interest – as explained earlier in this Manual at 7.1 and 7.2.

### 10.1 Making the decision

At the conclusion of the formal debate, the Presiding Member is required to ascertain the view of the meeting by calling for a vote. Section 5.21 of the Act explains voting and counting requirements, namely:

- voting to be open and accountable;
- each member of council or a committee present at the meeting is entitled to one vote;
- in the case of a tied vote the Presiding Member must cast a second vote; and
- a decision which is carried by the majority of votes at a meeting of council – at which a quorum is present – is considered to be a lawful decision of council.

Section 5.21(2) of the Act states that any member of a council or a committee with a delegated decision making power, who is present at a meeting, **must** vote on matters which require a decision at that meeting. The only exception is when the member has declared a financial interest in accordance with section 5.65 of the Act. If the member does not vote when required to do so, he or she is in breach of the Act (s5.21(5)). It is advisable for the local government's CEO to record in the minutes the name of the member who failed to vote on the matter. Such non-voting is considered a serious breach of the Act.

## 10.2 Counting the votes

Council's Standing Orders may permit the use of the 'show of hands' or 'on the voices' or other methods for taking the vote. It is a matter of discretion for the presiding member to adopt the most suitable method in the circumstances existing at the meeting.

An important duty of the presiding member is to ensure that the:

- view of the meeting is clearly articulated; and
- result of the voting is formally declared.

The Presiding Member can take any appropriate steps to ensure the result is clear. If any doubt exists, the Presiding Member can immediately seek a recount.

An elected member may request that their individual vote, or the votes of all the members, be recorded in the minutes. A request for a recount must occur immediately after the presiding member declares the result.

## 10.3 Presiding member's second vote

The person presiding has a vote and must exercise this right as a member of the council or of a committee. If the votes of members present at a council or committee meeting are equally divided the person presiding must cast a second vote to break the deadlock and achieve a result.

For example, if there are seven councillors plus the Shire President forming the quorum for the meeting and four councillors vote for the motion and three councillors and the Shire President vote against it, the vote would be tied. The Shire President, as the person presiding, would use his/her 'second vote' to break the deadlock and bring about a decision. The second vote cannot be used to achieve an 'absolute majority' vote outcome.

## 10.4 Revoking or changing meeting decisions

A decision of a local government to revoke or change an earlier decision may have serious legal implications for a variety of reasons, such as where the original decision has been implemented, or has already been communicated to the applicant.

It is not the purpose of this Manual to elaborate on such legal implications but local governments are urged to be sure that the issues are addressed and legal advice sought as necessary before attempting to revoke or change an earlier decision.

A well-researched report, prepared for the council or committee by or at the direction of the CEO addressing the legal, financial and any other consequences of the proposed revocation or change before the revocation process is commenced, is essential to ensure that all relevant matters are properly considered by the elected members.

Administration Regulation 10 prescribes how and when a decision made at a meeting of council or a committee may be revoked or changed. Such revocation or change can only occur where the result is that the original decision is either revoked or becomes "substantially different".

A motion to revoke or change a previous council or committee decision must (first stage) be supported, and be signed by at least one-third of the number of members (whether vacant or not), inclusive of the mover, of the council or committee, **or by an absolute majority** if an attempt to revoke or change the decision has been made and failed in the previous three months.

The second stage, (after the required support for the motion has been obtained and recorded), is the formal consideration of the motion after it is seconded and the decision whether or not to revoke or change the earlier resolution. This decision must be made, in the case where the decision to revoke or change was made by an absolute or special majority, by that same type of majority. In any other case, decisions are to be made by an absolute majority.

Administration Regulation 10 governs the number of members that must:

- support a motion to revoke or change a prior council or committee decision;  
and
- make a decision to change a prior council or committee decision.

The minutes must clearly show compliance with the voting requirements.

To ensure consistency, local governments should resolve the procedure that is to be adopted for accepting and recording a proposal to revoke or change a decision. It is recommended the names of the members who support the introduction of the motion should be recorded in the minutes, before the motion to revoke or change a decision is put to the meeting.

Unless the motion to revoke or change includes, as part of the motion, an explanation for the action, it is good practice to record the reason in a separate resolution or as a notation in the minutes.

## 10.5 Moving items 'en bloc'

The term "en bloc" is used to describe the practice of adopting the recommendations of a committee, or a number of officer recommendations, by the use of only one resolution or the adoption of the recommendations in groups, without a separate resolution for each recommendation.

The practice of adopting recommendations "en bloc" is intended to speed up the resolution of the business of the council meeting where elected members have no reason to disagree with particular recommendations. While the intent in adopting the procedure is obvious, it is extremely important that the outcome in respect to every item in the agenda is clear.



There is nothing in the Act or the Regulations to prevent recommendations being dealt with in groups. It is suggested however, that the Standing Orders of those local governments that have adopted, or wish to adopt, an "en bloc" method of dealing with committee or officer recommendations should be written to clearly endorse the practice. This will ensure there is consistency in the manner in which the recommendations of committees and officers are dealt with and recorded.

If a local government wishes to use, or continue to use, the "en bloc" method of dealing with and recording the outcome of decisions relating to recommendations from committees, the recommended procedure is as follows:-

Before commencing the process, the presiding person should give a brief explanation of the en bloc method of decision making for the benefit of the members of the public in the gallery.

The presiding person then introduces the committee or officer recommendations by reading the heading for each item. This practice makes it easier for elected members and members of the public to follow the business of the meeting. Groups of recommendations are then adopted by the council with the groups interspersed with resolutions relating to particular recommendations that are to be dealt with separately due to:

- the legislative requirement for absolute or special majority votes;
- a disclosure of financial or impartiality interest;
- the need to debate items of public interest that have attracted members of the public to the meeting to observe their determination, or may have been the subject of a deputation or a presentation to the council; or
- the need to debate items about which there is diverse opinion or there is disagreement with the recommendation(s).

## 11. Meeting records

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### 11.1 Keeping the record – minutes of the meeting

Minutes are the official record of the business and decisions made at the council and committee meetings and, as a legal record, are arguably the most important records of a local government. Under section 5.41(h) of the Act, it is the responsibility of the CEO to ensure that the records and documents of the local government are properly kept.

The minutes do not need to be a verbatim transcript of proceedings and there is no legal requirement to have a full transcript or even a summary of member's statements, unless it is determined at the meeting that this should occur.

Administration regulation 11 sets out what the content of minutes is to include. See also the Department's *'Agenda and Minutes Guide'*.

The minutes of each meeting need to be:

- an accurate historical recording of what took place and of the decisions made at the meeting in question;
- written in a consistent, clear and readable format so that members of the public can see the reasons for the decisions made;
- made available to the public; and
- must be stored as a record in an appropriate format and conditions and in compliance with the *State Records Act 2000*.

### 11.2 Transparent and accountable records of meeting

Administration regulation 11 sets out the content that the minutes of council or committee meetings must contain, including:

- the names of members present at the meeting;
- details of each motion moved, the mover and the outcome of the motion;
- details of each decision made at the meeting; and
- written reasons for each decision made at a meeting that is significantly different from the committee's or council employee's recommendation.

Section 5.22(2) and (3) of the Act requires that the minutes of a council or committee meeting are to go to the next meeting of the council or committee for confirmation and signing by the person presiding to certify the confirmation.

### 11.3 Accessible records

Section 5.94(n) (o) and (p) of the Act lists, amongst other items, the agenda and minute related documents, (whether or not current and in the form or medium that they are held by the local government), that must be available free for inspection by members of the public. This list includes the availability of:

- confirmed minutes of council or committee meetings;
- notice papers and agenda relating to any council or committee meeting; and
- reports and other documents that have been either tabled at, or produced for and presented at, a council or a committee meeting.

Administration regulation 29 provides a list of information that is to be available for public inspection. This includes unconfirmed minutes of council or committee meetings but excludes the meeting or that part of the meeting that was closed to members of the public, or in the CEO's opinion, could have been closed to members of the public but was not closed.

### 11.4 Confirmation of the minutes

The confirmation of the minutes of council is by way of a motion and the meeting may, until the confirmation motion is carried, move amendments to the minutes.

Once the minutes have been confirmed, they cannot be altered. If at a later date an error is noted in the minutes, any correction must be in the form of a motion and carried by the meeting. The minutes of the meeting are to record details of any motion for the correction of the minutes of a former meeting.

Courts have held that the minutes are prima facie evidence of council decisions but their accuracy may be challenged. The burden of proof is on the party questioning the accuracy of the minutes. In considering the adoption of the minutes, the test is to ask - are they a clear, accurate, concise and complete record of the business and decisions of the meeting?

## Appendix 1: A quick guide to the order of debate at a meeting

A quick guide to the order of debate at a meeting				
Motions	Member's Initials	Amendments	Member's Initials	Procedural Closure Motions
Motion: Insert ref no:		Amendment No 1:		Moved by:
Moved by:		Moved by:		Seconded by:
Seconded by:		Seconded by:		<b>* Check to ensure member's rights</b>
Mover's right to speak to motion		Speakers for the amendment:		
Taken? Y <input type="checkbox"/> N <input type="checkbox"/>		Speakers against the amendment:		
Secunder's right to speak to motion		Vote outcome of amendment 1		
Taken? Y <input type="checkbox"/> N <input type="checkbox"/>		Accepted? Y <input type="checkbox"/> N <input type="checkbox"/>		
Deferred? Y <input type="checkbox"/> N <input type="checkbox"/>				<b>Vote on procedural motion</b> and act on the vote decision. May terminate the need for any further action at this point.
		Amendment No 2:		
Speakers for the motion:		Moved by:		Carried <input type="checkbox"/>
		Seconded by:		Rejected <input type="checkbox"/>
Speakers against the motion:				
		Speakers for the amendment:		
Close of debate triggered by:				
-No more speakers		Speakers against the amendment:		
-No more amendments				
-*Procedural closure motions		Vote outcome of amendment 2		
		Accepted? Y <input type="checkbox"/> N <input type="checkbox"/>		
Mover of motions right of reply:				
Right taken? Y <input type="checkbox"/> N <input type="checkbox"/>		Amendment No 3:		
		Moved by:		
Vote on the motion- Original or as amended:		Seconded by:		
Carried <input type="checkbox"/>		Speakers for the amendment:		
Rejected <input type="checkbox"/>				
		Speakers against the amendment:		
		Vote outcome of amendment 3		
		Accepted? Y <input type="checkbox"/> N <input type="checkbox"/>		

## Notes

If you would like more information please contact us.

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