

COFFS HARBOUR CITY COUNCIL CODE OF MEETING PRACTICE



DECEMBER 2011





Coffs Harbour City Council

**CODE OF
MEETING PRACTICE**

Resolution of Council: 15 December 2011

GM11/30 - 281

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Coffs Harbour City Council Code of Meeting Practice

INTRODUCTION TO THE CODE

OBJECTIVES

The objectives of this Code of Meeting Practice are:

- to ensure that all meetings of Council and its Committees are conducted in an orderly and proper manner;
- to ensure that all meetings of Council and its Committees are conducted according to the principles of procedural fairness and due process;
- to increase Council's professionalism, transparency and accountability to the community;
- to ensure that all Councillors understand their rights and obligations during Council and Committee meetings;
- to ensure that all Councillors have an equal opportunity to participate fully in the meeting;
- to ensure that Councillors participate in meetings that engender a positive meeting environment that is without malice and avoids insulting, improper or defamatory statements; and
- to be an effective aid to good governance.

Council and Committee meetings comprising of Councillors only are to be conducted in accordance with this policy.

GUIDE TO REFERENCES IN THIS CODE

The Code consolidates provisions in relevant Acts, Regulations and the City's Supplementary Provisions which are specific meeting provisions for the Coffs Harbour City Council.

References to relevant sections in the *Local Government Act* and Regulations are included in the Code, however, these references are not necessarily verbatim.

Definitions:

LGA s.

Local Government Act 1993 – Section Number

Reg

Local Government Regulations 2005 – Regulation Number

DLG Prac note 16/2009

Division of Local Government Meetings Practice Note no 16 August 2009

DLG Circular 10-10

Division of Local Government Circular 10 – 21 May 2010

Part 1.0 - The Code of Meeting Practice

1.1 *Application of the Code*

Conduct of meetings of council and committees

- (1) The regulations of the Local Government Act may make provision with respect to the conduct of meetings of councils and committees of councils of which all the members are Councillors.
- (2) A council may adopt a code of meeting practice that incorporates the regulations made for the purposes of this section and supplements those regulations with provisions that are not inconsistent with them.
- (3) A council and a committee of the council of which all the members are Councillors must conduct its meetings in accordance with the code of meeting practice adopted by it.

LGA s.360

1.2 *Preparation of the Code of Meeting Practice*

Preparation, public notice and exhibition of draft code

- (1) Before adopting a code of meeting practice, a council must prepare a draft code.
- (2) The council must give public notice of the draft code after it is prepared.
- (3) The period of public exhibition must not be less than 28 days.
- (4) The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to the council.
- (5) The council must publicly exhibit the draft code in accordance with its notice.

LGA s.361

1.3 Adoption of the Code

Adoption of draft code

- (1) After considering all submissions received by it concerning the draft code, the council may decide:
 - (a) to amend those provisions of its draft code that supplement the regulations made for the purposes of Section 360 (Clause 1.1), or
 - (b) to adopt the draft code as its code of meeting practice

- (2) If the council decides to amend its draft code, it may publicly exhibit the amended draft in accordance with this Division (*Part 1 of this Code*) or, if the council is of the opinion that the amendments are not substantial, it may adopt the amended draft code without public exhibition as its code of meeting practice.

LGA s.362

A council may amend a code adopted under this Part (Part 1 of this Code) by means only of a code so adopted.

LGA s.363

1.4 Public Availability of the Code

- (1) The code of meeting practice under this Division adopted by a council must be available for public inspection free of charge at the office of the council during ordinary office hours.
- (2) Copies of the code must be available free of charge or, if the council determines, on payment of the approved fee.

LGA s.364

Note: A copy of this Code is also available on Council's website www.chcc.nsw.gov.au.

Part 2.0 - Before Council Meetings

2.1 *Frequency of Meetings*

How often does the council meet?

The council is required to meet at least ten times each year, each time in a different month.

LGA s.365

Dates of council meetings

The council will meet on the second and fourth Thursday of each month for the purpose of holding its Ordinary and committee meetings. Meeting times and dates of committees will be determined on an annual basis by council for the ensuing year and will be set out in an adopted meeting schedule.

CHCC Resolution 177/2008

2.2 *Notice of Meetings to Councillors*

Notice of meetings

The General Manager of a council must send to each Councillor, at least three days before each meeting of the council (*or committee*), a notice specifying the time and place at which and date on which the meeting is to be held and the business proposed to be transacted at the meeting.

LGA s.367(1)

Days of Notice

The day of issue and the day of the meeting are not to be counted as days of notice.

(Sec 36 Interpretations Act 1987)

2.3 Notice for Extraordinary Meeting

Calling of extraordinary meeting on request by Councillors

At least two (2) councillors can make a written request to the mayor to hold an extraordinary council meeting. The mayor can be one of the two councillors, but the mayor cannot call extraordinary meetings by him or herself without having a written request with another councillor's signature. The mayor must then 'call' the meeting, which is to be held as soon as practical but within fourteen (14) days after the request is made

LGA s.366

Notice of meetings

Notice of less than three days may be given of an extraordinary meeting called in an emergency.

LGA s.367(2)

2.4 Public Notice of Meetings

Public notice of meetings

- (1) A council must give notice to the public of the times and places of its meetings and meetings of those of its committees of which all the members are Councillors.
LGA s.9(1)
- (2) A notice of a meeting of a council or of a committee must be published in a newspaper circulating in the area before the meeting takes place.
- (3) The notice must specify the time and place of the meeting.
- (4) Notice of more than one meeting may be given in the same notice.
- (5) This clause (*public notice requirements*) does not apply to an extraordinary meeting of a council or a committee.

Reg 232(2)-(5)

2.5 Security Arrangements at Meetings

- (1) The meeting space of the Council Chamber is to be physically divided from the public gallery by the erection of an appropriate barrier and installation of a sign on the barrier stating 'No Public Access'.
- (2) Security cameras and signage are installed in the Council Chamber, and are to be activated as deemed necessary by the General Manager.
- (3) A sign is installed and maintained in the Council Chambers, prohibiting unauthorised recording of council meetings in accordance with clause 273 of the Regulation.

CHCC Resolution 16-Aug-2007, clause 5 - 7

Part 3.0 - Quorum and Attendance

3.1 *Quorum for a Meeting*

What is the quorum for a meeting?

The quorum for a meeting of the council is a majority of the Councillors of the council who hold office for the time being and are not suspended from office.

LGA s.368

3.2 *Councillor Presence at Council Meetings*

Presence at council meetings

A Councillor cannot participate in a meeting of a council unless personally present at the meeting and is present in the meeting room.

Reg 235

3.3 *Quorum not Present*

What happens when a quorum is not present

- (1) A meeting of a council must be adjourned if a quorum is not present:
 - (a) within half an hour after the time designated for the holding of the meeting, or;
 - (b) at any time during the meeting.
- (2) In either case, the meeting must be adjourned to a time, date and place fixed:
 - (a) by the Chairperson, or;
 - (b) in his or her absence - by the majority of the Councillors present, or;
 - (c) failing that, by the General Manager.
- (3) The General Manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the Councillors present.

Reg 233

3.4 Councillor Attendance at Meetings

Councillor absence from meetings

A civic office becomes vacant if the holder (*Councillor*) is absent from three consecutive ordinary meetings of the council unless the holder is absent because he or she has been suspended from office under Section 482 of the Act (*Pecuniary interest disciplinary order*) without:

- (1) prior leave of the council, or
- (2) leave granted by the council at any of the meetings concerned.

LGA s.234(1)(d)

3.5 Application for Leave of Absence

- (1) For the purposes of Clause 3.4, a Councillor applying for a leave of absence from a meeting of a council does not need to make the application in person and the council may grant such leave in the absence of that Councillor.

LGA s.234(2)

- (2) A Councillor's application for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the Councillor intends to be absent.

Reg 235A(1)

3.6 Meeting Attendance while on Leave of Absence

- (1) If the holder of a civic office attends a council meeting (whether or not an ordinary meeting) despite having been granted leave of absence, the leave of absence is taken to have been rescinded as regards any future council meeting.
- (2) Subsection (1) above does not prevent the council from granting further leave of absence in respect of any future council meeting.

LGA s.234(3)-(4)

- (3) A Councillor who intends to attend a council meeting despite having been granted leave of absence should, if practicable, give the General Manager at least 2 days' notice of his or her intention to attend.

Reg 235A(2)

3.7 *Tendering an Apology*

The tendering of an apology is not the same as applying for a leave of absence.

The tendering of an apology is an accepted convention to notify those present at a meeting that the person tendering the apology will not be attending the meeting.

The acceptance of an apology is a positive acknowledgement of the courtesy of the person who tendered it. It does not amount to a grant of a leave of absence.

DLG practice note 16/2009

3.8 *Who is Entitled to Attend Council Meetings*

- (1) Except as provided by this Part:
 - (a) everyone is entitled to attend a meeting of the council and those of its committees of which all the members are Councillors, and
 - (b) a council must ensure that all meetings of the council and of such committees are open to the public.
- (2) However, a person (whether a Councillor or another person) is not entitled to be present at a meeting of the council or of such a committee if expelled from the meeting:
 - (a) by a resolution of the meeting, or;
 - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.
- (3) A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.

LGA s.10

3.9 *Attendance of General Manager*

- (1) The General Manager is entitled to attend, but not to vote at a meeting of the council or a meeting of a committee of the council of which all the members are Councillors.
- (2) The General Manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.
- (3) However, the General Manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the General Manager or the terms of the employment of the General Manager.

LGA s.376

3.10 Attendance of Council Employees

The General Manager shall arrange for the attendance of such council employees as are considered necessary by the General Manager for the transaction of the notified council business.

CHCC Policy/Protocol

Part 4.0 - Presiding over Meetings of Council

4.1 *Chairperson and Deputy Chairperson of Council*

Who presides at meetings of the council?

- (1) The Mayor, or at the request of or in the absence of the Mayor, the Deputy Mayor presides at meetings of the council. The Mayor is “first among equals” charged with carrying on the meeting so that business before the meeting is conducted in accordance with this Code.

CHCC Policy/Protocol

- (2) If the Mayor and the Deputy Mayor are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the council.

LGA s.369(1-2)

4.2 *Councillors to be Elected to Preside at Certain Meetings*

- (1) If no Chairperson is present at a meeting of a council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a Chairperson to preside at the meeting.
- (2) The election must be conducted:
 - (a) by the General Manager or, in his or her absence, an employee of the council designated by the General Manager to conduct the election, or
 - (b) if neither of them is present at the meeting or there is no General Manager or designated employee – by the person who called the meeting or a person acting on his or her behalf
- (3) If, at an election of a Chairperson, two or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the Chairperson is to be the candidate whose name is chosen by lot.
- (4) For the purposes of subclause (3), the person conducting the election must:
 - (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
 - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- (5) The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.

Reg 236

4.3 Chairperson to have Precedence

When the Chairperson rises during a meeting of a council:

- (1) any Councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat, and
- (2) every Councillor present must be silent to enable the Chairperson to be heard without interruption.

Reg 237

4.4 Chairperson's Duty with Respect to Motions

- (1) It is the duty of the Chairperson at a meeting of a council to receive and to put to the meeting any lawful motion that is brought before the meeting.
- (2) The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- (3) Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.

Reg 238

4.5 Recognition of Chairperson

- (1) In addressing council, Councillors and other persons addressing the council shall at all times speak through the Chairperson.
- (2) Councillors and other persons addressing the council shall at all times show appropriate respect and observe the ruling of the Chairperson.
- (3) A Councillor, despite Clause 4.5(1) and Clause 4.5 (2), may, through a motion of dissent, challenge a ruling from the Chairperson.

CHCC Policy/Protocol

4.6 Mode of Address

- (1) To facilitate debate Councillors, with the exception of the Chairperson, are to stand in their place when speaking at a meeting of council (except when prevented by disability or injury). This procedure does not need to be followed at meetings of committees, nor in circumstances where the Chairperson rules that standing is not required.
- (2) In addressing council, Councillors and other persons addressing the council will use the appropriate mode of address to the Mayor, Deputy Mayor, fellow Councillors, employees of council and members of the public in attendance.
- (3) Councillors shall refrain from the use of offensive or inappropriate words in reference to any Councillors, employees of council and members of the public consistent with the City's Code of Conduct.
- (4) Councillors shall not make imputations of improper motives or personal reflections on Councillors, employees of council and members of the public consistent with the Model Code of Conduct.

CHCC Policy/Protocol

Part 5.0 - Meeting Agenda and Business Papers

5.1 Order of Business

Order of Business

- (1) The order of business at Ordinary meetings of Council, other than extraordinary meeting shall be:
 1. Opening of Ordinary Meeting
 2. Acknowledgement of Country
 3. Disclosures of Interests
 4. Apologies
 5. Public Addresses (First Ordinary Meeting of each month)
 6. Mayoral Minute
 7. Mayoral Actions under Delegated Authority
 8. Confirmation of Minutes of Ordinary Meeting
 9. Notices of Motion
 10. General Manager's Reports
 11. Consideration of Officers' Reports
 12. Requests for Leave of Absence
 13. Matters of an Urgent Nature
 14. Questions on Notice.
 15. Consideration of Confidential Items
 16. Close of Ordinary Meeting
- (2) The order of business fixed under subclause (1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.
- (3) despite Reg. 250 (*Speaking to Motions*), only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.

Reg 239

- (4) Where a Council meeting has not concluded by 10.00pm, the Mayor will move a Procedural Motion that the meeting be adjourned. In accordance with part 9 of this code, this motion will not require a seconder and debate will take place as to a date and time for the meeting to reconvene to consider all business not transacted at the adjourned meeting.

Council does not need to issue a new agenda and business paper for the adjourned meeting and business not already on the agenda could be dealt with only if the urgency procedure in clause 241(3) of the Regulation is followed.

If the meeting is adjourned to a different date or time, each Councillor and the public (where practicable) should be notified of the new date and time.

DLG practice note 16/2009 and Council protocol

5.2 Business Paper for Council Meetings

Agenda and business papers for council meetings

- (1) The General Manager must ensure that the agenda for a meeting of the council states:
 - (a) all matters to be dealt with arising out of the proceedings of former meetings of the council, and
 - (b) if the Mayor is the Chairperson - any matter or topic that the Chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
 - (c) subject to subclause (2), any business of which due notice has been given.
- (2) The General Manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business) would be unlawful. The General Manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council.
- (3) The General Manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- (4) The General Manager must ensure that the details of any item of business to which section 9 (2A) of the Act applies are included in a business paper for the meeting concerned.
- (5) Nothing in this clause limits the powers of the Chairperson under Regulation 243 (referring to a Mayoral Minute).

Reg 240

5.3 Removal of Items from the Agenda and Business Papers

- (1) Once the agenda for a meeting has been sent to Councillors an item of business on the agenda should not be removed from the agenda prior to the meeting.
- (2) If it is proposed that an item of business which is on the agenda not be dealt with at the meeting council should resolve to defer that business to another meeting or resolve not to consider the matter, as the case may be.

DLG Prac Note 16/2009

5.4 Distribution of Business Papers

Public notice of meetings

- (1) A council must give notice to the public of the times and places of its meetings and meetings of those of its committees of which all the members are Councillors.
- (2) A council and each such committee must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting.
- (2A) In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the General Manager, is likely to take place when the meeting is closed to the public:
 - (a) the agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item), and
 - (b) the requirements of subsection (2) with respect to the availability of business papers do not apply to the business papers for that item of business.
- (3) The copies are to be available to the public as nearly as possible to the time they are available to Councillors.
- (4) The copies are to be available free of charge.
- (5) A notice given under this section, or a copy of an agenda, or of a business paper made available under this section may in addition, be given or made available in electronic form.

LGA s.9(1)-(5)

5.5 Public Access to Correspondence and Reports

- (1) A council and a committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- (2) This section does not apply if the correspondence or reports:
 - (a) relate to a matter that was received or discussed, or
 - (b) were laid on the table at, or submitted to the meeting when the meeting was closed to the public.
- (3) This section does not apply if the council or committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in section 10A (2) of the Act, are to be treated as confidential.

LGA s.11

5.6 Giving Notice of Business

A council must not transact business at a meeting of the council:

- (1) unless a Councillor has given notice of the business in writing within such time before the meeting as is fixed by the council's code of meeting practice; or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by resolution of the council, and;
- (2) unless notice of the business has been sent to the Councillors in accordance with section 367 of the Act (*ie, an extraordinary meeting in an emergency*).

Reg 241(1)

For the purposes of sub-section (1); Clause 8.1 of this Code specifies that formal notice of a motion put by a Councillor should be submitted to the General Manager 14 days before the meeting at which it is to be resolved.

CHCC Policy/Protocol

Subclause (1) and (2) do not apply to the consideration of business at a meeting if the business:

- (1) is already before, or directly relates to a matter that is already before, the council, or;
- (2) is the election of a Chairperson to preside at the meeting as provided by clause 4.2 of this Code, or;
- (3) is a matter or topic put to the meeting by the Chairperson in accordance with clause 5.8 of this Code, or;
- (4) is a motion for the adoption of recommendations of a committee of the council.

Reg 241(2)

5.7 Dealing with Matters Without Notice

Giving notice of business

- (1) Despite clause 5.6, business may be transacted at a meeting of a council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
 - (a) a motion is passed to have the business transacted at the meeting, and
 - (b) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.
 - (c) Such a motion can be moved without notice.
- (2) Despite clause 8.4 of this Code, only the mover of a motion referred to in subclause (1) can speak to the motion before it is put.

Reg 241(3)-(4)

5.8 Mayoral Minute

- (1) If the Mayor is the Chairperson at a meeting of a council, the Chairperson is, by minute signed by the Chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the council or of which the council has official knowledge.
- (2) Such a minute, when put to the meeting, takes precedence over all business on the council's agenda (business paper) for the meeting. The Chairperson (but only if the Chairperson is the Mayor) may move adoption of the minute without the motion being seconded.
- (3) A recommendation made in a minute of the Chairperson (being the Mayor) or in a report made by a council employee is, so far as adopted by the council, a resolution of the council.

Reg 243

- (4) A mayoral minute may be altered, however any changes to a mayoral minute should avoid making changes that would introduce, without notice, matters which need research or a lot of consideration by the Councillors before coming to a decision

DLG practice note 16/2009

5.9 Agenda for Extraordinary Meeting

The General Manager must ensure that the agenda for an extraordinary meeting of a council deals only with the matters stated in the notice of the meeting.

Reg 242(1)

5.10 Dealing with Matters Without Notice at an Extraordinary Meeting

- (1) Despite clause 5.9, business may be transacted at an extraordinary meeting of a council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
 - (a) a motion is passed to have the business transacted at the meeting, and
 - (b) The business proposed to be brought forward is ruled by the chairperson to be of great urgency
- (2) Despite clause 8.4 of this Code only the mover of a motion referred to in subclause (1) can speak to the motion before it is put.

Reg 242(3)-(4)D)

5.11 Members of the Public Addressing Council

Addressing council on matters listed before council and committee meetings

Any member of the public may address the council or any one of its committees at the commencement of ordinary meetings on matters listed before the council or committee of council subject to the following conditions:

- (1) The purpose of providing for public addresses is to allow representations to council on matters listed before the council or committee of council.
- (2) Speakers must confine their comments to such matters.
- (3) The duration of a public address be limited to five minutes unless varied by the Mayor or Chairperson should circumstances dictate.
- (3) Members of the public wishing to address the council or a committee are to nominate at least four days before the meeting and of the issue to be addressed.
- (4) Speakers and representatives either for or against a proposal be limited to the first meeting at which the report from council staff is presented for determination.
- (5) Public addresses be limited to one 'for' and one 'against' each proposal.
- (6) The order of speakers be strictly in order of request and where the issue addressed relates to an application before the council, the applicant be offered a right of reply.
- (7) Approval to late requests to address a meeting of the council or a committee be at the discretion of the Chairperson of the meeting or the General Manager.

CHCC Policy/Protocol

Public Forum

Any member of the public may address council at its 'Public Forum' at a time adopted by council during the first Ordinary meeting of the month on a matter not listed before the council, subject to conditions outlined above in 5.7 (Clause 1).

- (1) Speakers are not permitted to speak again at the Public Forum on that matter for a period of six months.
- (2) The public forum is not to be used as a mechanism for lodging a complaint or airing a grievance, where other avenues to lodge such issues exist within council's policies and procedures.

CHCC Policy/Protocol

Mode of Address

- (1) In addressing council, Councillors and other persons addressing the council will use the appropriate mode of address to the Mayor, Deputy Mayor, fellow Councillors, employees of council and members of the public in attendance.
- (2) All people addressing council shall refrain from the use of offensive or inappropriate words in reference to any Councillors, employees of council and members of the public consistent with City's Code of Conduct.
- (3) No person shall make imputations of improper motives or personal reflections on Councillors, employees of council, members of the public, or those which are inconsistent with the Model Code of Conduct.

CHCC Policy/Protocol

5.12 *Public Recording of Meetings Prohibited Without Council Authority*

- (1) A person may use a tape recorder to record the proceedings of a meeting of a council or a committee of a council only with the authority of the council or committee.
- (2) A person may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a council or a committee of a council for using or having used a tape recorder in contravention of this clause.
- (3) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.
- (4) In this clause, **tape recorder** includes a video camera and any electronic device capable of recording speech, photographic or video images, whether a magnetic tape is used to record or not.

Reg 273

- (5) The Chair of the meeting will make the following announcement at the commencement of the Council Meeting:
"Please note that this meeting is being recorded. No other recordings of this meeting are permitted."

CHCC Policy/Protocol

Part 6.0 Declarations of Interests

6.1 *What is a Pecuniary Interest*

What is a “pecuniary interest”?

- (1) A ***pecuniary interest*** is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.
- (2) A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in section 448 of the Act (Clause 6.3 below).

LGAs.442

6.2 Pecuniary Interest and Conflicts of Interest

Pecuniary Interests/Conflicts of Interest

- (1) The first item on the agenda for all council or committee meetings, other than that held annually for election of the Deputy Mayor, (after apologies/requests for leave of absence) shall be the declaring of pecuniary interests/conflicts of interest.
 - (2) A Councillor who has a pecuniary interest or conflict of interest in any matter with which council is concerned and who is present at a meeting of council or a committee at which the matter is being considered must disclose the interest and the nature of the interest to the meeting as soon as practicable.
 - (3) The Councillor or member must not be present at, or in sight of, the meeting of the council or committee:
 - (a) at any time during which the matter is being considered or discussed by the council or committee, or
 - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- LGAs.451(2)
- (4) Though a conflict of interest is not covered by the provisions of the Act, the Councillor must not be in the meeting room at the time the vote is taken as his/her presence and not voting is taken to be a vote in the negative.

Disclosures to be recorded

A disclosure made at a meeting of council or a committee must be recorded in the minutes of the meeting.

LGAs.453

6.3 *Interests that do not Require Disclosure*

Interests that do not require disclosure

The following interests do not have to be disclosed:

- (1) an interest as an elector,
- (2) an interest as a ratepayer or person liable to pay a charge,
- (3) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this Part,
- (4) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part,
- (5) an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not),
- (6) an interest of a member of a council committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee,
- (7) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible uses of:
 - (a) land in which the person or a person, company or body referred to in section 443 (1) (b) or (c) of the Act has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or
 - (b) land adjoining, adjacent to or in proximity to land referred to in subparagraph (a), if the person or the person, company or body referred to in section 443 (1) (b) or (c) of the Act would by reason of the proprietary interest have a pecuniary interest in the proposal,
- (8) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company,

- (9) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership,
- (10) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
 - (a) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation,
 - (b) security for damage to footpaths or roads,
 - (c) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract,
- (11) an interest relating to the payment of fees to Councillors (including the Mayor and Deputy Mayor),
- (12) an interest relating to the payment of expenses and the provision of facilities to Councillors (including the Mayor and Deputy Mayor) in accordance with a policy under section 252 of the Act (*Councillors' Expenses Policy*),
- (13) an interest relating to an election to the office of Mayor arising from the fact that a fee for the following 12 months has been determined for the office of Mayor,
- (14) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,
- (15) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor or member of a council committee;
- (16) an interest arising from appointment of a Councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

LGA s.448

6.4 Pecuniary Interest – Determination of Whether One Exists

- (1) A person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
 - (a) the person, or
 - (b) the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, or
 - (c) a company or other body of which the person, or a nominee, partner or employer of the person, is a member.
- (2) However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (1) (b) or (c):
 - (a) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
 - (b) just because the person is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or
 - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

LGA s.443

6.5 Disclosure of Pecuniary Interests and Presence in Meetings

- (1) A Councillor or a member of a council committee who has a pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- (2) The Councillor or member must not be present at, or in sight of, the meeting of the council or committee:
 - (a) at any time during which the matter is being considered or discussed by the council or committee, or
 - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- (3) For the removal of doubt, a Councillor or a member of a council committee is not prevented by this section from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the Councillor or member has an interest in the matter of a kind referred to in section 448 of the Act (*Clause 6.3 of this Code.*)

Note: The Code of Conduct adopted by a council may also impose obligations on Councillors, members of staff of councils and delegates of councils.

LGA s.451

6.6 Sufficient General Disclosure

A general notice given to the General Manager in writing by a Councillor or a member of a council committee to the effect that the Councillor or member, or the Councillor's or member's spouse, de facto partner or relative, is:

- (1) a member, or in the employment, of a specified company or other body, or
- (2) a partner, or in the employment, of a specified person, unless and until the notice is withdrawn, sufficient disclosure of the Councillor's or member's interest in the matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.

LGA s.454

6.7 Disclosure by Advisor

- (1) A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee must disclose the nature of any pecuniary interest the person has in a matter to the meeting at the time the advice is given.
- (2) The person is not required to disclose the person's interest as an adviser.

LGA s.456

6.8 Circumstances where Disclosure Rules are not Breached

A person does not breach section 451 or 456 of the Act (*Clause 6.5 and Clause 6.7 of this Code*) if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

LGA s.457

6.9 Disclosure to be Recorded in Minutes

A disclosure made at a meeting of council or a council committee must be recorded in the minutes of the meeting.

LGA s.453

6.10 Disclosures to be in Writing and Tabled at Meetings

Disclosures of Pecuniary Interests and Non-Pecuniary Interests are to be made in writing and are to be tabled at the commencement of ordinary meetings, committee meetings and extra-ordinary meetings.

CHCC Policy/Protocol

Part 7.0 Questions and Tabling of Matters

7.1 Questions to Councillors and Employees

- (1) A Councillor:
 - (a) may, through the Chairperson, put a question to another Councillor, and;
 - (b) may, through the General Manager, put a question to a council employee.
- (2) However, a Councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.
- (3) The Councillor must put every such question directly, succinctly and without argument.
- (4) The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or council employee under this clause.

Reg 249

7.2 Questions on Notice

- (1) Questions on Notice must be lodged in writing with the General Manager or specified delegate no later than Close of Business (COB) ten days preceding the meeting of council at which the Questions on Notice are to be considered.
- (2) Questions on Notice must directly relate to the business of council and must comply with the Local Government (General) Regulation 2005 which provides at Clause 249 that a "Councillor must put every such question directly, succinctly and without argument".
- (3) Questions should not contain:
 - (a) statements of facts or names of persons unless they are strictly necessary to render the question intelligible and can be authenticated;
 - (b) argument;
 - (c) inference, or;
 - (d) imputation.

CHCC Policy/Protocol

7.3 Matters for Tabling – Pecuniary Interests

Register and tabling of returns

- (1) The General Manager must keep a register of returns required to be lodged with the General Manager under section 449 of the Act.
- (2) The returns required to be lodged with the General Manager under section 449 of the Act must be tabled at a meeting of the council, being:
 - (a) in the case of a return lodged in accordance with section 449(1) – the first meeting held after the last day for lodgement under that subsection, or
 - (b) in the case of a return lodged in accordance with section 449(3) – the first meeting held after the last day for lodgement under that subsection, or
 - (c) in the case of a return otherwise lodged with the General Manager – the first meeting after the lodgement.

LGA s.450A

Disclosures in Business Paper

The business paper for council meeting will include a reference to any disclosure of interests of Councillors and designated persons which are to be tabled at the meeting.

CHCC Policy/Protocol

7.4 Tabling a Report of Departmental Representative

Report of a Departmental representative to be tabled at council meeting

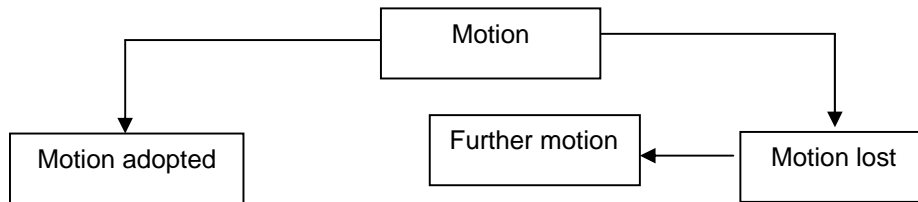
When a report of a Departmental representative has been presented to a meeting of a council in accordance with section 433 of the Act (*that is, investigation of council ordered by the Director General of the Department of Local Government*), the council must ensure that the report:

- (1) is laid on the table at that meeting, and
- (2) is subsequently available for the information of Councillors and members of the public at all reasonable times.

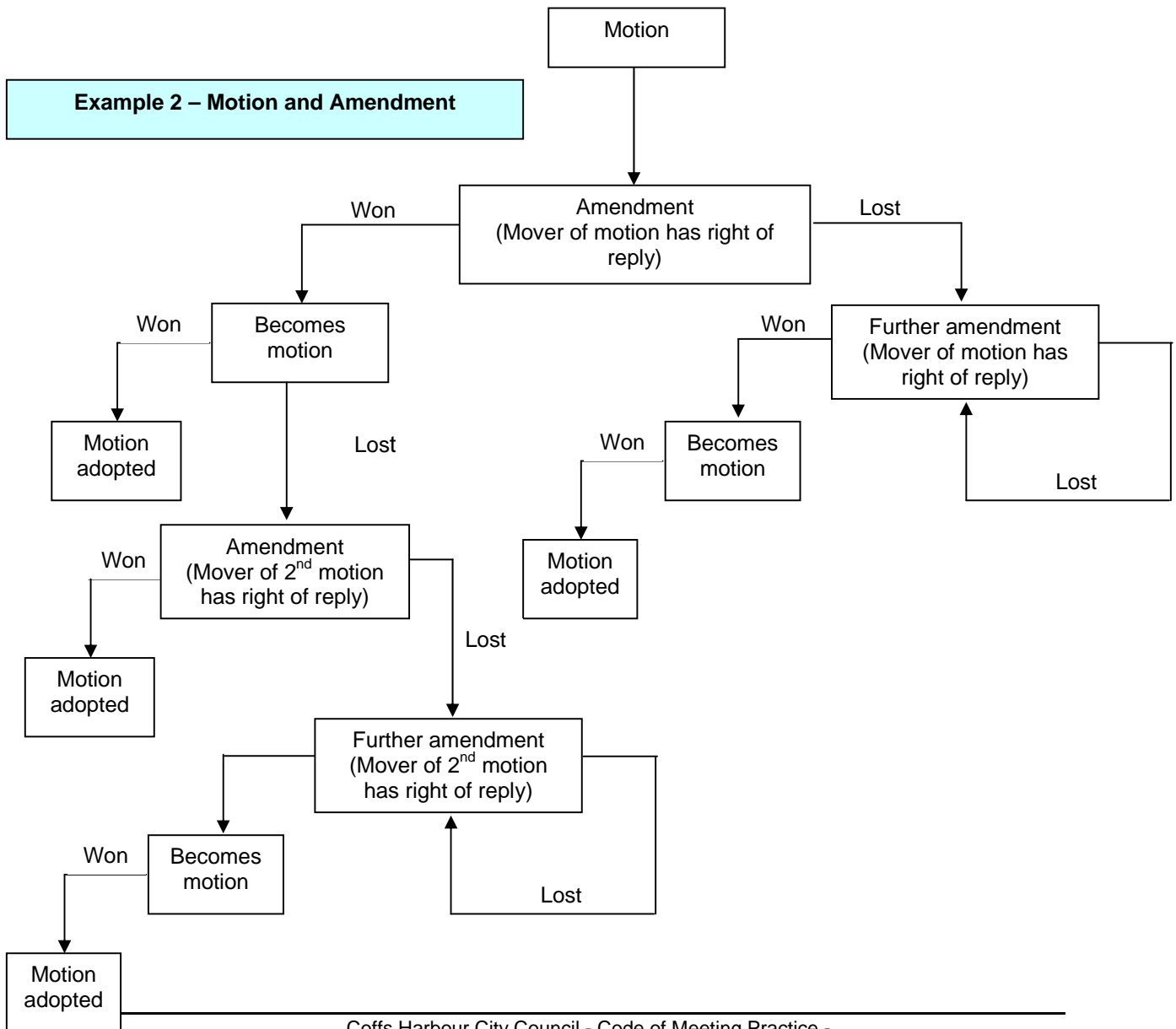
Reg 244

Part 8.0 Motions – Process of Motions Flowchart

Example 1 – Motion Only



Example 2 – Motion and Amendment



8.1 Notice of Motion

Notices of Motion

Notices of Motion – Minimum Notice Required

- (1) A formal Notice of Motion by a Councillor, not being the Mayor, which is to be included in the General Manager's report in a business paper, should be submitted in writing to the General Manager fourteen (14) days before the meeting at which it is to be resolved; unless the matter is of an urgent nature.
- (2) If the Mayor wishes, because of importance or urgency, he/she may include the matter in a Mayoral minute. If the Mayor refuses to accept the motion for inclusion in a Mayoral minute, such a refusal shall be noted in General Business and recorded in the minutes of the meeting.
- (3) Staff, through the General Manager, may provide factual information on a Councillor's Notice of Motion, but shall not make a recommendation.
- (4) Presentation of the Notice of Motion shall not be delayed beyond the next Ordinary meeting of council without the consent of the Mayor and the Councillor lodging the Notice of Motion, or the council in meeting.
- (5) The Mayor may, at the request of the Councillor giving notice of motion or with his consent, present the Notice of Motion to council as a Mayoral minute.

CHCC Policy/Protocol

8.2 Notice of Motion - Absence of Mover

In the absence of a Councillor who has placed a notice of motion on the business paper for a meeting of a council;

- (1) any other Councillor may move the motion at the meeting, or
- (2) the Chairperson may defer the motion until the next meeting of the council at which such motion can be considered.

Reg 245

8.3 Motions to be Seconded

A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clause 5.8(2) (*Mayoral Minute*) and clause 9.2(2) (*where a motion has been put*).

Reg 246

8.4 Speaking to Motions

- (1) A Councillor who, during a debate at a meeting of a council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- (2) A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

Reg 250

8.5 Speaking to a Misrepresentation or Misunderstanding

- (1) A Councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the Chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

Reg 250

- (2) Nothing in Clauses 8.4 or 8.5 affects questions being asked, with the leave of the Chairperson, relevant to any matter under discussion at a meeting.

CHCC Policy/Protocol

8.6 Variations to Motions

A Councillor may seek to vary a motion by:

- (1) obtaining the unanimous consent of council; or
- (2) proposing an amendment to the Motion

CHCC Policy/Protocol

8.7 Variations by Consent

- (1) If a Councillor, including the seconder to the original motion, proposes a variation to a motion, the Chairperson shall ask whether any Councillor objects to the variation.
- (2) If there is no objection, the proposed variation is adopted into the motion by consent of the council.
- (3) If there is an objection, the proposed variation must be dealt with as an amendment and seconded and voted on accordingly.
- (4) If the variation is proposed by the seconder to the original motion, but not accepted by Councillors, then a new seconder should be sought for the original motion.

Note: The intention of a variation by consent is to enable a change to a motion that is non-contentious, improves clarity or effects a correction. This is also consistent with the common law rule that a seconder to a motion cannot move an amendment but enables a seconder to move a variation.

CHCC Policy/Protocol

8.8 Amendments to Motions

- (1) An amendment is a proposition to alter a motion that is under consideration by the meeting and is not subject to the notice of motion requirements set out at Clause 8.1.
- (2) An amendment must be moved and seconded.
- (3) To be accepted as an amendment, it must relate to the motion.
- (4) The amendment must also be moved before the debate on the motion has been concluded and the right of reply of the mover of the motion has been exercised.
- (5) An amendment cannot be accepted if it is a direct rebuttal of the motion it seeks to amend.
- (6) An amendment should not be moved that is substantially the same as an earlier rejected amendment on the motion.
- (7) An amendment that is in opposition to an amendment already accepted should not be moved or accepted for debate.
- (8) In the situation where a number of amendments have been *foreshadowed*, it is important that they should be considered in due succession ensuring the practicality of the motion.
- (9) Each amendment is separately considered and voted on.
- (10) Only one amendment may be considered by the meeting at any one time. Debate is confined to the amendment under consideration although during debate a Councillor may foreshadow a motion or amendment.
- (11) Once an amendment has been moved and seconded, it cannot be withdrawn without the consent of the meeting.

CHCC Policy/Protocol

8.9 How Subsequent Amendments may be Moved

If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the council at any one time.

Reg 247

8.10 Foreshadowed Motions or Amendments

- (1) Foreshadowed motions and amendments will be considered in the order they were notified to the meeting.
- (2) The Chairperson may exercise discretion and recommend to the meeting a change of order for foreshadowed motions or amendments.
- (3) Foreshadowed motions or amendments are still subject to the Clause 8.3 (to be moved and seconded).

CHCC Policy/Protocol

8.11 Motions Without Notice

Giving notice of business

- (1) Despite subclause 8.1(1) (*Notice of Motion requirements*), business may be transacted at a meeting of a council even though due notice of the business has not been given to the Councillors. However, this may only occur if:
 - (a) a motion is passed to have the business transacted at the meeting, and
 - (b) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.
- (2) Subject to the conditions of subclause (1) above being fulfilled then a motion can be moved without notice.

Reg 241(3)

- (3) If, after the Councillor has addressed the council, the Chairperson has ruled the matter is of great urgency, then the motion is moved, seconded, debated and voted on.
- (4) If the Chairperson rules the motion is not urgent, then no further debate on the matter is to be permitted.
- (5) If the Chairperson rules the motion is not urgent, a Councillor may move a Motion of Dissent.

CHCC Policy/Protocol

8.12 Motions following a Question on Notice

Where an answer has been provided to a question on notice and a Councillor seeks to move a motion arising from that question and considered by Council, notice should be given to the General Manager in the usual way. The General Manager can include the item on the agenda for the next meeting. If the matter is urgent, it could be dealt with as in 8.11 above.

Part 9.0 Procedural Motions

9.1 *Motions of Dissent*

- (1) A Councillor can, without notice, move to dissent from the ruling of the Chairperson on a point of order. If that happens, the Chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- (2) If a motion of dissent is passed, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business to the agenda and proceed with it in due course.
- (3) Despite clause 8.4 of this Code, only the mover of a motion of dissent and the Chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

Reg 248

Note: The Chairperson shall put the motion as “that the Chairperson’s ruling be upheld”.

9.2 *Putting the Motion or Amendment*

Limitation as to number of speeches

- (1) A Councillor may move that a motion or an amendment be now put:
 - (a) if the mover of the motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it, or
 - (b) if at least 2 Councillors have spoken in favour of the motion or amendment and at least 2 Councillors have spoken against it.
- (2) The Chairperson must immediately put to the vote, without debate, a motion moved. A seconder is not required for such a motion.
- (3) If a motion that the original motion or an amendment be now put is passed, the Chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply.
- (4) If a motion that the original motion or an amendment be now put is rejected, the Chairperson must allow the debate on the original motion or the amendment to be resumed.

Reg 250(4)-(7)

Part 10.0 Order at Meetings

10.1 Questions of Order

The Chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the Chairperson, it is necessary to do so.

- (1) A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson to the matter.
- (2) The Chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- (3) The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

Reg 255

10.2 Act of Disorder by Councillor

- (1) A Councillor commits an act of disorder if the Councillor, at a meeting of a council or a committee of a council:
 - (a) contravenes the Act or any regulation in force under the Act, or
 - (b) assaults or threatens to assault another Councillor or person present at the meeting, or
 - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or committee, or addresses or attempts to address the council or committee on such a motion, amendment or matter, or
 - (d) insults or makes personal reflections on or imputes improper motives to any other Councillor, or
 - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or committee into contempt.
- (2) The Chairperson may require a Councillor:
 - (a) to apologise without reservation for an act of disorder referred to in subclause (1) (a) or (b), or
 - (b) to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation, or
 - (c) to retract and apologise without reservation for an act of disorder referred to in subclause (1) (d) or (e).
- (3) A Councillor may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a council having failed to comply with a requirement under subclause (2). The expulsion of a Councillor from the meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

Reg 256

10.3 Act of Disorder by Others not being Councillors

The definitions of “disorder” and “disorderly conduct” for the purpose of the Act and Regulation will be that of “behaviour which causes disturbance or annoyance to others present or any breach of decorum which tends to disturb the peace or interfere with the comfort of people”.

CHCC Resolution 99/2007

10.4 Disorder at Meetings – Adjournment/Expulsion

How disorder at a meeting may be dealt with

- (1) If disorder occurs at a meeting of a council, the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the Chair. The council, on reassembling, must, on a question put from the Chairperson, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors.
- (2) A member of the public may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a council for engaging in or having engaged in disorderly conduct at the meeting.

Reg 257

10.5 Effect of Expulsion

A person (whether a Councillor or another person) is not entitled to be present at a meeting of the council or committee if expelled from the meeting:

- (1) by resolution of the meeting, or
- (2) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

LGA s.10 (2) (a-b)

10.6 Power to Remove Persons from Council Meeting

- (1) The power to expel a person or persons from a meeting of council, or from a committee of council of which all members are Councillors, may be exercised by any person presiding at that meeting.

CHCC Resolution 99/2007

- (2) If a Councillor or a member of the public fails to leave the place where a meeting of a council is being held:
- (a) immediately after the council has passed a resolution expelling the Councillor or member from the meeting, or
 - (b) where the council has authorised the person presiding at the meeting to exercise the power of expulsion - immediately after being directed by the person presiding to leave the meeting

A police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the Councillor or member from that place and, if necessary, restrain the Councillor or member from re-entering that place.

Reg 258

- (3) For the purposes of sub-section (2), a person authorised to enforce a decision of expulsion will mean the Rangers, private security guards, General Manager, or his delegate, and that all these persons are authorised to remove the person subject to an expulsion decision from the meeting, without prior consultation or delegation by council or the person presiding at that meeting.

CHCC Resolution 99/2007

- (4) To assist in the enforcement of expulsion powers as may be exercised by duly authorised persons, professional security personnel will attend council meetings as deemed necessary by, and at the discretion of, the General Manager.

CHCC Resolution 99/2007

Part 11.0 Closed Meetings

11.1 *Motion to Close Part of the Meeting*

Which parts of a meeting can be closed to the public?

A council, or a committee of the council of which all the members are Councillors, may close to the public so much of its meeting as comprises:

- (1) the discussion of any of the matters listed in subclause (1) – *(Clause 11.2)*, or
- (2) the receipt or discussion of any of the information so listed.

LGA s.10A(1)

A motion to move to closed session to deal with the item for the specific reason from Section 10A(2) of the Act may be moved

The motion when put, if carried, requires the Chairperson inform the press and public to depart the Chamber. If lost, the matter can rest or a motion to deal with the information in open meeting can be moved. (A cautionary note is offered that the debate is restricted to the motion not the content of the confidential information).

The agenda must give sufficient information for the public to be aware of what is to be discussed in closed session and specifically refer to the reason for dealing with the matter by identifying it from LGA s.10A (2)(a) to (g) of the Act.

DLG Practice Note 16/2009

11.2 Grounds to Close Meetings

- (1) The matters and information are the following:
 - (a) personnel matters concerning particular individuals (other than Councillors),
 - (b) the personal hardship of any resident or ratepayer,
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
 - (e) information that would, if disclosed, prejudice the maintenance of law,
 - (f) matters affecting the security of the council, Councillors, council staff or council property,
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
 - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.
- (2) A council, or a committee of the council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

LGA s.10A(2)-(3)

11.3 Limitations to Closing Meetings

A meeting is not to be closed during the discussion :

- (1) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
- (2) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret - unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

LGA s.10B(1)

11.4 Discussion of Legal Matters

A meeting is not to be closed during the receipt and consideration of information or advice referred to in Section 10A(2)(g) of the Act unless the advice concerns legal matters that:

- (1) are substantial issues relating to a matter in which the council or committee is involved, and
- (2) are clearly identified in the advice, and
- (3) are fully discussed in that advice.

LGA s.10B(2)

11.5 Motions to Close other Parts of a Meeting

If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in Section 10A (3) of the Act), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in Section 10A (2) of the Act).

LGA s.10B(3)

11.6 Matters of Public Interest

For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:

- (1) a person may misinterpret or misunderstand the discussion, or
- (2) the discussion of the matter may:
 - (a) cause embarrassment to the council or committee concerned, or to Councillors or to employees of the council; or
 - (b) cause a loss of confidence in the council or committee.

LGA s.10B(4)

11.7 Department Guidelines for Meeting Closure

In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must have regard to any relevant guidelines issued by the Director-General.

LGA s.10B(5)

11.8 Representation by Public Before a Council Meeting is Closed

- (1) A council, or a committee of council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

LGA s.10A(4)

- (2) A representation at a council meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.

- (3) That period is as fixed by the council's code of meeting practice. (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings

Reg 252(1)-(2)

11.9 Specifying Grounds for Closing Meetings

- (1) The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.
- (2) The grounds must specify the following:
 - (a) the relevant provision of Section 10A(2) of the Act,
 - (b) the matter that is to be discussed during the closed part of the meeting,
 - (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

LGA s.10D(1)-(2)

11.10 Notice of Closure not required in Urgent Cases

Part of a meeting of a council, or of a committee of the council of which all the members are Councillors, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting as a matter that is likely to be considered when the meeting is closed, but only if:

- (1) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in section 10A (2) of the Act, and
- (2) the council or committee, after considering any representations made under section 10A (4) of the Act, resolves that further discussion of the matter:
 - (a) should not be deferred (because of the urgency of the matter), and;
 - (b) should take place in a part of the meeting that is closed to the public.

LGA s.10C

11.11 Conclusion of Closed Meeting

At the conclusion of business in closed Council, Council must resolve that the meeting be open to the public.

DLG Prac Note 16/2009

11.12 Resolutions to be Made Public

If a council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended.

Reg 253

Part 12.0 Voting and Decisions of Council

12.1 What Constitutes a Decision of the Council?

A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

LGA s.371

12.2 Invalidation of Council and Committee Decisions

Proceedings at a meeting of a Council or a Council Committee are not invalidated because of:

- (1) a vacancy in a civic office, or
- (2) a failure to give notice of the meeting to any Councillor or Committee member, or
- (3) any defect in the election or appointment of a Councillor or Committee member, or
- (4) a failure of a Councillor or Committee member to disclose a pecuniary interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a Council meeting in accordance with Section 451 of the Local Government Act, or
- (5) a failure to comply with the Code of Meeting Practice.

LGA s 374

12.3 Voting Entitlements of Councillors and Chairperson's Casting Vote

What are the voting entitlements of Councillors?

Each Councillor is entitled to one vote. If the voting on a matter is equal, the chairperson has a second or 'casting' vote. This is in addition to any vote the chairperson has as a Councillor.

There is nothing in the legislation to say how a casting vote is to be used. The chairperson does not need to vote the same way on their first and second vote.

LGA s.370

DLG practice note 16/2009

12.4 Abstentions to be Counted

Voting at council meetings

- (1) A Councillor who is present at a meeting of a council but who fails to vote on a motion put to the meeting is taken to have voted against the motion. *(This subclause does not apply to a Councillor who does not vote because he or she has a pecuniary interest in the subject matter of the motion.)*
- (2) If a Councillor who has voted against a motion put at a council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the council's minutes.

Reg 251

12.5 Divisions

Conducting a Division

- (1) The decision of the Chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 Councillors rise and demand a division.
- (2) When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately.
- (3) The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the council's minutes.

Reg 251

12.6 Planning Decisions – Division Required

A division is always required whenever a motion for a planning decision is put to the vote at a meeting of Council or a meeting of a council committee.

LGAs.375A

12.7 Voting at Council Excepting Elections

Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the council may resolve that the voting in any election by Councillors for Deputy Mayor is to be by secret ballot.

Reg 251(5)

12.8 Voting at Committees

Voting procedure in committees

- (1) Subject to subclause (3), each committee of a council may regulate its own procedure.
- (2) Without limiting subclause (1), a committee of a council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the Chairperson of the committee is to have a casting vote as well as an original vote.
- (3) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands).

Reg 265

12.9 Rescinding or Altering Resolutions of the Council

- (1) A resolution passed by a council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with the regulations made under section 360 of the Act and, if applicable, the council's code of meeting practice.
- (2) If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.
- (3) If a motion has been negatived by a council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with the council's code of meeting practice.
- (4) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negatived by the council, must be signed by 3 Councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negatived, as the case may be.
- (5) If a motion to alter or rescind a resolution has been negatived, or if a motion which has the same effect as a previously negatived motion, is negatived, no similar motion may be brought forward within 3 months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.
- (6) A motion to which this section applies may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.
- (7) The provisions of this section concerning negatived motions do not apply to motions of adjournment.

LGA s.372

Part 13.0 Committees of Council

13.1 Committee of Whole of Council

Committee of council

- (1) A council may resolve itself into a committee to consider any matter before the council.

LGA s.373

- (2) Committees of council which membership consists of the full council will:
 - (a) Commence as a full council meeting.
 - (b) Resolve into committee of the whole for the purpose of considering the committee's report.
 - (c) Recommend to return to full council to adopt or reject the recommendations of the committee of the whole.
- (3) Committees of council which membership does not consist of the full council, will make recommendations or pass resolutions (pursuant to approved delegations), for either adoption or confirmation at the next meeting of council, where practical.

CHCC Policy/Protocol

13.2 Committee of the Whole

- (1) All the provisions of this Regulation relating to meetings of a council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provision limiting the number and duration of speeches.
- (2) The General Manager or, in the absence of the General Manager, an employee of the council designated by the General Manager is responsible for reporting to the council proceedings in committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- (3) The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

Reg 259

13.3 Functions of the Committees

A council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions.

Reg 261

13.4 Notice of Committee Meetings to be Given

- (1) The General Manager of a council must send to each Councillor, at least 3 days before each meeting of the committee, a notice specifying:
 - (a) the time and place at which and the date on which the meeting is to be held, and
 - (b) the business proposed to be transacted at the meeting.
- (2) However, notice of less than 3 days may be given of a committee meeting called in an emergency.

Reg 262

13.5 Councillors Entitled to Attend Committee Meetings

Non-members entitled to attend committee meetings

- (1) A Councillor who is not a member of a committee of a council is entitled to attend, and to speak at, a meeting of the committee.
- (2) However, the Councillor is not entitled:
 - (a) to give notice of business for inclusion in the agenda for the meeting, or
 - (b) to move or second a motion at the meeting, or
 - (c) to vote at the meeting.

Reg 263

13.6 Chairperson and Deputy Chairperson of Committees

- (1) The Chairperson of each committee of the council must be:
 - (a) the Mayor, or;
 - (b) if the Mayor does not wish to be the Chairperson of a committee - a member of the committee elected by the council, or;
 - (c) if the council does not elect such a member - a member of the committee elected by the committee.
- (2) A council may elect a member of a committee of the council as deputy Chairperson of the committee. If the council does not elect a deputy Chairperson of such a committee, the committee may elect a deputy Chairperson.
- (3) If neither the Chairperson nor the deputy Chairperson of a committee of a council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting Chairperson of the committee.
- (4) The Chairperson is to preside at a meeting of a committee of a council. If the Chairperson is unable or unwilling to preside, the deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the deputy Chairperson is able or willing to preside, the acting Chairperson is to preside at the meeting.

Reg 267

13.7 Representation by Public Before Closure of Committee Meeting

- (1) A representation at a committee meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.
- (2) That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of committee meetings.

Reg 264

Reg 265

13.8 Absence from Committee Meetings

- (1) A member (other than the Mayor) ceases to be a member of a committee if the member:
 - (a) has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
 - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- (2) Subclause (1) does not apply in respect of a committee that consists of all of the members of the council.

Reg 268

Note: The expression *year* means the period beginning 1 July and ending the following 30 June as noted in the Dictionary to the Local Government Act.

13.9 Disorder in Committee Meetings

The provisions of the Act and of the Regulation relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

Reg 270

13.10 Certain Persons may be Expelled from Council Committee meetings

- (1) If a meeting or part of a meeting of a committee of a council is closed to the public in accordance with section 10A of the Act, any person who is not a Councillor may be expelled from the meeting as provided by section 10 (2) (a) or (b) of the Act.
- (2) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council, committee or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.

Reg 271

13.11 Committees to Keep Minutes

- (1) Each committee of a council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular, a committee must ensure that the following matters are recorded in the committee's minutes:
 - (a) details of each motion moved at a meeting and of any amendments moved to it,
 - (b) the names of the mover and seconder of the motion or amendment,
 - (c) whether the motion or amendment is passed or lost.
- (2) As soon as the minutes of an earlier meeting of a committee of the council have been confirmed at a later meeting of the committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.

Reg 266

13.12 Reports of Committees

- (1) If in a report of a committee of the council distinct recommendations are made, the decision of the council may be made separately on each recommendation.
- (2) The recommendations of a committee of the council are, so far as adopted by the council, resolutions of the council.
- (3) If a committee of a council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must:
 - (a) make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and;
 - (b) report the resolution or recommendation to the next meeting of the council.

Reg 269

Part 14.0 Minutes and Access to Information

14.1 Minutes of Meeting

- (1) The council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the council.
- (2) The minutes must, when they have been confirmed at a subsequent meeting of the council, be signed by the person presiding at that subsequent meeting.

LGA s.375

14.2 Matters to be included in Minutes of Council meeting

The General Manager must ensure that the following matters are recorded in the council's minutes:

- (1) details of each motion moved at a council meeting and of any amendments moved to it,
- (2) the names of the mover and seconder of the motion or amendment,
- (3) whether the motion or amendment is passed or lost.
Reg 254
- (4) the circumstances and reasons relating to the absence of a quorum together with the names of the councillors present.
Reg 233 (3)
- (5) the dissenting vote of a councillor, if requested.
Reg 251 (2)
- (6) the grounds for closing part of a meeting to the public.
LGASec10D
- (7) the report of a council committee leading to a rescission or alteration motion.
LGASec 372 (6)
- (8) the disclosure to a meeting by a councillor of a pecuniary interest.
LGASec 453
- (9) a report of the proceedings of the committee of the whole, including any recommendations of the committee.
Reg 259 (3)
- (10) sufficient detail to indicate the nature of any resolution made in a closed part of a meeting

DLG Prac Note 16/2009

Note: Section 375(1) of the Act requires a council to ensure that full and accurate minutes are kept of the proceedings of a meeting of the council (other provisions of this Regulation and of the Act require particular matters to be recorded in a council's minutes).

14.3 *Inspection of the Minutes of a Council or Committee Meeting*

- (1) An inspection of the minutes of a council or committee of a council is to be carried out under the supervision of the General Manager or an employee of the council designated by the General Manager to supervise inspections of those minutes.
- (2) The General Manager must ensure that the minutes of the council and any minutes of a committee of the council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

Reg 272

Note: The Government Information (Public Access) Act 2009 confers a right (restricted in the case of closed parts of meetings) to inspect the minutes of a council or committee of a council.

The minutes of a meeting of Council will be made available on Council's website at www.chcc.nsw.gov.au as soon as practicable after the Council meeting.

CHCC Policy/Protocol

14.4 Disclosure and Misuse of Information

- (1) A person must not disclose any information obtained in connection with administration or execution of the Act unless that disclosure is made:
 - (a) with the consent of the person from whom the information was obtained; or
 - (b) in connection with the administration or execution of the Act, or
 - (c) for the purposes of any legal proceedings arising out of the Act or of any report of any such proceedings, or
 - (d) in accordance with a requirement imposed under the *Ombudsman Act 1974* or the *Government Information (Public Access) Act 2009*, or
 - (e) with other lawful excuse.
- (2) In particular, if part of a meeting of a council or a committee of a council is closed to the public in accordance with Section 10A(1) of the Act, a person must not, without the authority of the council or the committee, disclose (otherwise than to the council or a Councillor of the council) information with respect to the discussion at, or the business of, the meeting.
- (3) Subsection (2) does not apply to:
 - (a) the report of a committee of a council after it has been presented to the council, or
 - (b) disclosure made in any of the circumstances referred to in subsection (1)(a)-(e), or
 - (c) disclosure made in circumstances prescribed by the regulations, or
 - (d) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with the *Government Information (Public Access) Act 2009*.
- (4) A person acting in the administration or execution of this Act must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known, for the purpose of gaining either directly or indirectly a financial advantage for the person, the person's spouse or de facto partner or a relative of the person.
- (5) A person acting in the administration or execution of this Act, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person, influence:
 - (a) the determination of an application for an approval, or
 - (b) the giving of an order.

LGA s.664

Part 15.0 Workshops/Briefings

15.1 Attendance at Workshops

Council can hold workshops (or briefing sessions), involving Councillors, staff and invited participants to provide background information to Councillors on issues. These workshops are informal gatherings and should not be used for detailed or advanced discussions. Workshops are a means which enable Councillors to bring an informed mind to the appropriate decision-making forum.

DLG practice note 16/2009

Workshops are to be chaired by the General Manager or another senior council officer and are not compulsory for Councillors to attend, though every Councillor should be invited. Any information distributed at a workshop, must also be distributed to any Councillor who is not present.

DLG Circ 10/10

Any confidential items to be discussed at a workshop/briefing are to be advised on the agenda and clearly stated at the beginning of the presentation. Any documents distributed are to be marked as 'confidential'. In accordance with Coffs Harbour City Council's Code of Conduct section 10.5, the information is only to be used for the purpose it is intended to be used.

CHCC Policy/Protocol

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