



ATTACHMENTS TO MINUTES SPECIAL COUNCIL MEETING


3 DECEMBER 2018

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5.1 Tender 19_069 - Transfer of Project Approvals for the Emu Swamp Dam Project

Document Information

 Southern Downs REGIONAL COUNCIL	Report To: Confidential Special Council Meeting	
	Reporting Officer:	Meeting Date: 3 December 2018
	Contracts and Procurement Officer	ECM Function No/s:

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 275(1)(a-h) of the *Local Government Regulation 2012*, which permits the meeting to be closed to the public for business relating to contracts proposed to be made by Southern Downs Regional Council.

Recommendation

THAT Council enters into a contract with the Stanthorpe and Granite Belt Chamber of Commerce for the purchase of the Project Approvals resulting from the Environmental Impact Statement ("EIS") for the Emu Swamp Dam Project for the amount of \$8,000.00.

Report

For a number of decades Southern Downs Regional Council has been involved in the process for the establishment of the proposed Emu Swamp Dam. The current Southern Downs Regional Council and the former Stanthorpe Shire Council has expended significant ratepayer funds and officer time in obtaining State and Federal Government approvals for the proposed Emu Swamp Dam.

Additionally, one property has also been purchased as part of the process.

On 26 July 2017, Southern Downs Regional Council resolved not to proceed with the proposed Emu Swamp Dam as the preferred option, following the completion of the GHD Stage One Business Case Report, which had been funded through the National Water Infrastructure Development Fund.

The remaining funds from the National Water Infrastructure Development Fund were redirected to the Stanthorpe Chamber of Commerce. The Chamber of Commerce is now completing an alternative business case using Jacobs Consulting.

Key to the progression of the business case being prepared by Jacobs Consulting is the opportunity to use the existing Approvals. On 21 June 2018, Southern Downs Regional Council wrote to the Office of the Coordinator General requesting an extension to the approvals.

The proposed Emu Swamp Dam project is subject to the following approvals:

- (a) Coordinator-General's evaluation report on the environmental impact statement under the State Development and Public Works Organisation Act 1971 (Qld) (SDPWO Act) dated September 2014 (CG Approval); and
- (b) Commonwealth approval 2006/3201 under the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) dated 11 November 2014 (Commonwealth Approval).

On 2 October 2018, Southern Downs Regional Council was informed that an extension had been granted until 2 April 2019.

Noting that there was interest in the acquisition of the approvals for the proposed Emu Swamp Dam, Southern Downs Regional Council sought legal advice in relation to the potential sale of the Project Approvals to recoup some of the ratepayer funds that have been expended on the processes.

It was never the case that Southern Downs Regional Council had an expectation that all funds expended on the project by ratepayers would be recouped.

As such the Approvals were advertised as part of a tender process.

Council issued an open Tender for interested parties to purchase the Project Approvals and the resulting Environmental Impact Statement ("EIS") for the Emu Swamp Dam Project on 26 October 2018 with a closing date of 20 November 2018.

One submission was received from:

- a) The Stanthorpe and Granite Belt Chamber of Commerce (SGBCC)

The tendered price for the transfer of the Project Approvals is \$8,000 (excluding GST). The Chamber of Commerce indicated that the reasoning behind this is response to the Tender was that the Southern Downs Regional Council had expended funds to this amount in 2018 for the sole purpose of disposal of the Project Approvals. The Chamber submits that the outlays for extension of the Project Approvals are a legitimate cost to be recouped from any new proponent of the project.

Budget Implications

Current expenditure for this project is as below:

- a) \$942,221.00 (excluding GST) in obtaining the Approvals for the Emu Swamp Dam Project;
- b) \$16,000.00 (excluding GST) in seeking extensions for the Approvals;
- c) \$543,759.00 (excluding GST) expended by the former Stanthorpe Shire Council to obtain the Approvals.

This expenditure does not include funding or grants from any level of government or contributions from the private sector.

Policy Consideration

Procurement Policy PL-FS010

Community Engagement

Significant consultation has occurred in relation to the proposed Emu Swamp Dam project and there was significant consultation as part of the GHD report.

Legislation/Local Law

Local Government Regulations – Part 6 Contracting

Options

- 1. Council enters into a contract with the Stanthorpe and Granite Belt Chamber of Commerce for the purchase of the Project Approvals resulting from the Environmental Impact Statement ("EIS") for the Emu Swamp Dam Project for the amount of \$8,000.00.

2. Council does not enter into a contract with the Stanthorpe and Granite Belt Chamber of Commerce for the purchase of the Project Approvals resulting from the Environmental Impact Statement ("EIS") for the Emu Swamp Dam Project for the amount of \$8,000.00.

Attachments

1. Tender Submission - Stanthorpe Chamber of Commerce

20th November 2018

Ms Renee Wallace
Manager Water and Waste Water
Southern Downs Regional Council
www.lgtenderbox.com.au

Dear Renee,

The Stanthorpe and Granite Belt Chamber of Commerce (SGBCC) is submitting a response to Tender request 19_069 Transfer of Project Approvals for the Emu Swamp Dam Project (the Approvals).

The schedule of requested Evaluation Criteria and Definitions and Information Required is responded to in Part B of the SGBCC Tender.

However the Chamber feels that to fully understand the development, funding and granting of the Approvals and their role in the Granite Belt Irrigation Project (GBIP) that the Chamber's tender should also include additional information to fully reflect the context and history of the Approvals and their importance in progressing the development of the Granite Belt Irrigation Project.

I look forward to your advice as to the success of this tender, and would welcome any requests for further information to assist Council's understanding of the GBIP and its deliberations regards disposal of the Approvals.

Yours Sincerely



Bill James
President

PART A. Additional Information

Tender request 19_069.

Transfer of Project Approvals for the Emu Swamp Dam Project

Development of the Coordinator General's EIS Approvals were initiated in March 2007 when the draft terms of reference for the EIS were released for public consultation. The process culminated in the Approvals being provided to the SDRC by the Coordinator General in September 2014 and extended to include Commonwealth approvals in November 2014.

In this nearly eight year period significant funds, support activities and expertise were contributed in the development of the Approvals by State Government officers from the then DNR, QDPI and Dept State Development, State Government grants, private funds as well as ratepayer funds. Consequently the Stanthorpe and Granite Belt Chamber do not believe the 'cost recovery' for disposal of the Approvals by just one party is equitable or morally correct.

The Approvals were sought for the purpose of developing a dam and pipeline network, not for sale or cost recovery if the project did not proceed under the Council's stewardship. The costs were incurred by the Council, representing the community, from annual expenditure and it is believed that the Approvals were never classified as assets.

The Approvals were extended in 2017 for 12 months and in October 2018 for six months and will now lapse on 2 April 2019. In approving the latest extension the Coordinator General noted that 'there has been very limited progress securing further approvals or finance required for the project since the CGER was released' and that 'the case for a further extension is therefore not strong'.

The Coordinator General also recognised that the SDRC was requesting an extension solely so it could pass the approvals to another entity, and recognised that the Chamber was working on a dam proposal. In effect the Coordinator General identified the caretaker role the SDRC had played since 2014, and would do until 2019. The only costs incurred during this caretaker role have been the fees paid to the Coordinator General for extensions.

The Chamber considers it unfortunate that the SDRC has chosen to undertake a process which, on the advice of the SDRC's Chief Executive Officer in May 2018, will take some 42 days to complete. This will result in any decision to transfer the Approvals not being completed until approximately the 11 December 2018 which is some two months after the extension was granted. Also as the process will conclude immediately before the Christmas holiday period it will effectively require a new proponent to commence work on progressing the project in early January, only three months from the expiration of approvals.

The conduct of SDRC is further disappointing because when the Queensland and Federal Governments approved the Chamber concluding a detailed business case for the Emu Swamp Dam Feasibility Study in January 2018, SDRC had already determined not to progress the project as a result of accepting the advice contained in a consultancy report in 2017. SDRC acknowledged this in May 2018 when the Chamber of Commerce was attempting to obtain the approvals from the SDRC and identify a suitable project proponent.

It is also disappointing that the SDRC would seek to recover the funds expended on obtaining the Approvals that it, and its predecessor the Stanthorpe Shire Council, properly authorised as part of discharging their local government responsibilities. All decisions made by the SDRC to fund activities associated with the Emu Swamp Dam Project reflect the current planning processes under which the Council operates including:

- Southern Downs 2030 Community Plan Section 4.2 "securing a sustainable water supply to support industry;"
- Southern Downs Regional Council Corporate Plan 2014-2019 Revised Edition 'The Environmentally Sustainable Southern Downs' Section 6.8 "Develop and Review plans for Emu Swamp Dam including associated risk management strategies;" and
- Operational Plan 2012-13 No. 43 required the progression of Supplementary EIS for Emu Swamp Dam.
- Operational Plan 2015-16 S6.8 'progress Emu Swamp dam project'
- Operational Plan 2016-17 S6.8 'Progress Emu Swamp dam project conditions of approval' – funding provided from operating budget. It should be noted that no progress was made on progressing the approvals.
- Operational Plan 2017-18 S6.8 'Progress Emu Swamp Dam project conditions of approval' – funding provided from operating budget. (It is noted that no progress was made on progressing the approvals.

It is disappointing that the SDRC is seeking to profit from activities funded from other sources that have contributed to the EIS and the Supplementary EIS. The Stanthorpe Community Reference Panel, made up of 24 community representatives and 20 growers, contributed approximately \$150,000 toward the EIS to demonstrate their interest in the dam project progressing, and assist the Council when it did not have budgeted funds to pay for tasks arising to progress the project.

The funds expended by the Stanthorpe Community Reference Panel were donations made by its members, and from funds transferred from another community organisation; SWAG (Stanthorpe Water Action Group) that was active around 2000 and ceased independent operations after several year's activity. SWAG's funds were also collected from community members (urban and rural) and were transferred to the SCRP to assist with advancement of water security for Stanthorpe and its industries. Also funds were received from the Queensland Government under the "Smaller Communities Assistance Program". All these funds were used to undertake studies that informed the outcome of the EIS.

The tender process adopted by the SDRC, in the Chambers view, are unnecessary in the light of alternative courses of action legally available to them under the Local Government Regulations (2012). Exemption provisions in section 236 (1) (a) to (e) would have allowed the disposal of the Approvals by a quicker, less expensive and in the Chamber's view, more appropriate method. The SDRC Mayor and all Councillors were made aware of these exemptions in correspondence from the Chamber on 16th October 2018.

The commencement of the tender process will mean that the detailed business case for the GBIP will be concluded without the ability of a forward implementation timetable due to the uncertainty surrounding the EIS approvals.

**PART A. Addressing the evaluation criteria and provision of the Information required
Tender request 19_069.
Transfer of Project Approvals for the Emu Swamp Dam Project**

PRICE

1. Price Schedule

The Stanthorpe and Granite Belt Chamber of Commerce (SGBCC) recognises that the Southern Downs Regional Council expended funds in 2018 for the sole purpose of disposal of the approvals and agrees that the outlays for extension of the Approvals, are a legitimate cost to be recouped from any new proponent of the project.

The SGBCC tenders the price of \$8,000 plus GST for transfer of the project approvals for the Emu Swamp Dam Project.

EXPERIENCE IN SIMILAR PROJECTS

2. Statement of Experience and Capabilities

The SGBCC has established a wholly owned, subsidiary Emu Swamp Dam (ESD) Pty Ltd as the vehicle for progressing the project, post submission of the detailed business case to the Queensland Government on 30 November 2018.

ESD Pty Ltd is chaired by Mr. Dan Hunt GAICD, formerly Chairman of Queensland Bulk Water Supply Authority (SEQWater) who is also a former Director General of the Queensland Department of Energy and Water Supply, and Department of Natural Resources and Mines and the Department of Mines and Energy. Mr Hunt has also held non-executive board and governance positions on the Australian Water Recycling Centre of Excellence Ltd; DBCT (Dalrymple Bay Coal Terminal) Holdings Pty Ltd; University of Queensland Sustainable Minerals Institute; and the Centre for International Minerals and Energy Law.

The SGBCC and ESD Pty Ltd have separately entered into a Teaming Agreement (Memorandum of Understanding) with Jacobs Group (Australia) Pty Ltd. Jacobs is a global services firm skilled at managing large, complex programs, and demonstrate that it can also help provide the project with cost solutions that are both efficient and minimised to keep costs down by staffing substantial, multi-year programs. JACOBS is a full service, fully integrated firm, with the ability to design, engineer, and construct projects from beginning to end. It is a major employer of field services personnel with years of hands on experience. They have displayed the ability to develop and maintain strong relationships and delivery of innovative design and cost advantages and growth to its clients.

With due respect to the advice that the SDRC has received from McCullough Robertson, the SGBCC does not interpret the letter of extension of the Approvals from the Coordinator General dated 2nd October 2018 to require the transferee to have the experience and capabilities to deliver the project. That letter states that "for any further extension beyond 2 April 2019 to be considered I would need to be satisfied that any new proponent has the capability to deliver the project in a timely manner."

Thus if the SGBCC was to obtain the Approvals from the SDRC and was to proceed with the GBIP it would have to extend the Approvals beyond 2nd April 2019, and then demonstrate to the Coordinator General (not the SDRC) that it had the capability (not necessarily experience) to deliver the project.

Throughout the development of the detailed business case Chamber has established professional relationships with individuals and businesses that have the demonstrated capability and experience in developing irrigation projects.

The Stanthorpe Community Reference Panel is a local representative organisation with skills based members, and the ability to appoint further skills based members as the need arises. The SCRCP is an incorporated body that was formed by the Qld Government and the Stanthorpe Shire Council. Its members have participated in many of the processes, including the development of the EIS, that have brought the GBIP thus far. The SCRCP has acted as a member of the projects expert review panel and has committed to assist deliver in the delivery of the project with experience and capabilities of its current and future members.

However if the project were to proceed then suitable contractors would be engaged with regard to their track record and contract experience. This would include an examination of their management systems (Health and Safety, Environmental, Quality Assurance and Traffic Management) as the tender request correctly highlights the importance of these in a project such as the GBIP. Progression of the project to construction would be by an appropriate tender process and the current commitments of successful nominated contractor teams and details of proposed subcontractors would be an appropriate consideration in that process, as the SDRC tender request has correctly highlighted.

3. Resources

The SGBCC is an organisation of modest assets with an annual turnover of approximately \$30,000 per year. However it successfully demonstrated to the Australian and Queensland Governments its ability to complete a detailed business case for the GBIP, and was granted \$3,520,000 of funding under the National Water Infrastructure Development Fund on 28th February 2018. The completed DBC document will be delivered to Government on 30th November 2018.

To conduct the DBC the Chamber has demonstrated that it can assemble the resources needed for a large project. It has demonstrated the capability to contract and manage the required organisations and professionals needed for the project, and has done so with a high level of probity and governance. The Chamber is well qualified to enlist the required assistance needed to progress the GBIP to the next stage of project delivery.

4. Management Systems

The management systems of the SGBCC are those that are required of an organisation of its size, aims and activities. That is they have adequate financial controls, hold the appropriate insurances, are subject to annual financial audits, and they comply with the requirements of an Incorporated body. The entity that would progress the GBIP is a Company that is subject to the standard ASIC controls and requirements.

CAPACITY TO DELIVER

5. Risk Management Plan:

The identification of risk, mitigations and consequences for every stage of the project such as the GBIP are many and varied. A detailed and regularly updated risk schedule was developed as a very early part of the detailed business case for the GBIP and will be available to the SDRC once the DBC is approved by the State and Federal Governments.

The risks identified in the current stage of the GBIP are tabulated below, as are some other risks that the SDRC may be cognisant of when considering the transfer of the Approvals.

If the Approvals are not transferred from the SDRC to a new proponent, and the new proponent cannot get them extended past April 2019 because they cannot satisfy the Coordinator General they have the capability to deliver the project in a timely manner, the Approvals will lapse. The Chamber submits that one obvious component of capability that the Coordinator General would seek would be the successful completion of a detailed business case. As the SGBCC is about to complete a DBC it follows that they would be the potential successful tender with the greatest chance of seeking an extension of the Approvals to enable delivery of the GBIP. Thus the greatest risk, and the one that the SDRC can help mitigate, for the benefit of the region, is Risk no. 1. In fact if the Council actually wishes to see the GBIP proceed it should assess that this can only be achieved by transferring the Approvals to the SGBCC.

	Identified Risk	Mitigation	Short term consequences	Long term consequences
1	The Approvals are not successfully transferred from the SDRC to the SGBCC	Submitting a successful tender to the SDRC	The project cannot be delivered.	Loss of 700 new jobs. Annual flow of \$68m into local economy forgone. Urban water shortages.
		Development of new EIS and new Approvals sought.	Significant delays in the project (7+ years).	Local economic development delayed. Urban water shortages.
2	The Approvals are transferred to the SGBCC but are not extended past 2 April 2019 by the Coordinator General.	The SGBCC demonstrates to the CG it has "the capability to deliver the project in a timely manner."	The project cannot be delivered and the Approvals would lapse in April 2019.	Local economic development is forgone. Urban water shortages.
3	The Approvals are transferred to the SGBCC but the project does not proceed due to the DBC not being accepted by the State or Federal Governments.	Completion of a successful DBC with sound technical inputs (engineering and economic) and rigorous external review.	The Approvals would lapse in April 2019.	Any new proponent would have to develop a new DBC and seek new Approvals.
4	Approvals are transferred to the SGBCC but the project does not proceed due to required water not being available in new Border Rivers and Moonee water plan.	Successful submission to the draft water plan by the SGBCC, and the cooperation of the SDRC regards water allocations being obtained.	The Approvals would lapse in April 2019.	Any new proponent would have to develop a new DBC to align with the water plan, and seek new Approvals.
5	The Approvals are transferred to the SGBCC but the project does not proceed due to Government funding being unavailable or grant applications being unsuccessful.	Development of suitable applications for grants made available by Government.	The project cannot be delivered and the Approvals would lapse in April 2019.	Local economic development is forgone. Urban water shortages.

6. Conflict of Interest forms

Conflict of interest declarations are not seen as necessary for the transfer of the Approvals from the SDRC to the SGBCC as the Chamber is a community organisation which cannot directly benefit from the transfer of the Approvals nor from the progression of the GBIP.

However members and non-members of the Chamber can and will indirectly benefit if the GBIP comes to fruition. Most, if not all local businesses, residents, workers, organisations and service providers (including the Regional Council) will benefit from the project. The indirect benefits of the transfer of the Approvals and the progression of the GBIP will include enhanced economic activity, improved liveability in the region and reduction of risks of drought in the region. All these benefits are core aims of the Chamber and as such are not considered conflicts with the aims of the Chamber as stated in its constitution.

In the development of the detailed business case the members of the Chamber that were on the project steering committee completed appropriate declarations to reveal any potential, perceived or real conflicts of interests. The opportunity to update conflicts of interests was formally provided at the commencement of every steering committee meeting. This level of governance would also apply if the GBIP proceeds past the DBC stage.

7. Statement of Approach

A simplified outline of the approach for delivery of the GBIP project is to seek a successful outcome to the following processes;

1. Completion of the detailed business case by 30th November 2018
2. Acceptance of the DBC by State and Federal Governments
3. Successful application for grant for funds under the NWIDF program
4. Transfer of the Approvals from the SDRC
5. Obtain sufficient water in the Border Rivers and Moonee River new water plan for the project
6. Gain an extension of the Approvals from the Qld Coordinator General before April 2019

SUPPORT FROM THE PRIVATE SECTOR

8. Letters of Support

The GBIP has very wide community support. Several local community and business organisations have expressed support for the project, including;

The Stanthorpe and Granite Belt Chamber of Commerce supports the GBIP. Chamber identified the progression of the GBIP as their major goal within their strategic business plan, developed with the assistance of the SDRC in 2016. The SGBCC has over 100 members and is a very active representative body that has devoted significant resources to the investigation of the project viability and realisation of the many benefits that can be unlocked for business, residents and visitors to the region. The SGBCC has concluded that the project would be 'transformative' for Stanthorpe.

The Stanthorpe Community Reference Panel supports the GBIP. The Reference Panel is an incorporated body created by the State Government and Stanthorpe Shire Council over 15 years ago to give advice to all levels of Government on water issues. Its membership is a broad base of qualified and experienced professionals, business people, agri-business owners, environmentalists and community representatives. In the past it has been chaired by two Stanthorpe Mayors and an acting Mayor and is currently chaired by Mr Vic Pennisi.

The Panel has assisted the Federal Government with many Murray Darling Basin deliberations and in 2016 was appointed the primary consultation group to the Queensland Government's Dept of Natural Resources and Mines to assist with the review of the Water Resource Plan for the Border Rivers. It has assisted past local Councils with advice and significant funds to progress and evaluate water options in the region.

The Granite Belt Community Association supports the GBIP.

The Association is an independent community-based, not-for-profit organisation that was formed in the Granite Belt portion of the Southern Downs Region and incorporated in 2016. Its aims include working to support the future of the communities of the Granite Belt by working cooperatively with Local, State and Federal Government representatives, Departments and authorities and other relevant organisations in order to resolve the concerns of communities and their residents and to improve their futures. As an example of the Association's community representative powers, it has harnessed significant community support (5,500+ petition signatures, public meeting of 1,200 residents and \$60+k fundraising) for the de-amalgamation that it identified as worthy of community consideration.

The stewardship and development of the detailed business case and this tender should be taken as indicative of the support that the Stanthorpe and Granite Belt Chamber of Commerce has for the GBIP. Letters of support for the GBIP from the Stanthorpe Community Reference Panel and Granite Belt Community Association are attached.

The Queensland Farmer's Federation and the Apple and Pear Australia Limited have made submissions to the draft water plan for the Border Rivers and Moonie that include strong support for the development of the GBIP.

The development of the detailed business case for the GBIP included two extensive surveys of potential water customers. This 'Demand Assessment' was required under the Building Queensland guidelines that the DBC adhered closely to. This process demonstrated commercial demand for the project with 56 local agri-businesses signing purchase intent documents. The demand has 'over-subscribed' the project and committed \$23.4m of private funding.

Letters of support are attached from the following businesses;

- Powercat
- C&A Accountants
- Power Tynan
- M&D Auto Parts
- Netpro
- I & L Rizzato & Sons
- Pooles Produce
- Go Vita
- Wrens Valley
- Sweets Strawberry Runners
- 31 The Rocks

Support from all the above community and industry organisations and businesses for the GBIP can only be realised if the Approvals are successfully transferred to the SGBCC as the new proponent of the project.

LOCAL BUSINESS AND INDUSTRY

The successful progression of the Granite Belt Irrigation Project will make major contributions to the local economy. The economic benefits identified and quantified in the detailed business case include;

- The creation of 282 new full time equivalent jobs directly in the agricultural sector
- The creation of 418 new full time equivalent jobs in support industries
- The creation of 135 full time equivalent jobs over the three year construction period of the dam and pipeline.
- A \$68 million Increase in gross agricultural production in the region

There are several initiatives within the GBIP designed to promote and support the local community. Specifically;

- The GBIP contains a provision to supply emergency water to the town of Stanthorpe when the current water supply (Storm King Dam) falls to critical levels. This provision is planned at no capital cost to ratepayers. Drought-proofing a major town in the Southern Downs Region will support liveability and promote the town as a desirable destination for young families and retirees to move to and for young people seeking employment to stay in.
- Riverine health and biodiversity will be improved by the establishment of greater water resources in the region. This will add to the already high natural environment values held in the region and valued by its residents and visitors.
- The GBIP will develop a new 200 hectare lake with 300 hectares of surrounding vegetated reserve that will be a major addition to the recreational and tourist facilities of the region. The dam at Emu Swamp location will be close to five times the size of Stanthorpe's existing Storm King dam and will also create additional sporting opportunities for the region.

The contributions to the local economy and the initiatives to support the local community listed above can only be realised if the proponents of the detailed business case (SGBCC) can successfully obtain the required Approvals and bring the project to fruition.

9. Local Industry Participation Plan

Because this tender only relates to the transfer of Approvals and not the initiation of any construction the development of a local Industry participation plan and/or local procurement and pricing policy is premature.

However because one aim of the SGBCC is to act as a custodian of local industry and businesses there has been meaningful input into the detailed business case to ensure that the local economy benefits during the construction of the project.



Council Meetings Policy

Policy Number:	PL-EX036
Department:	Corporate Services
Section:	Governance
Responsible Manager:	Manager Corporate Services
Date Adopted:	22 May 2013
Date to be Reviewed:	3 December 2019
Date Reviewed:	3 December 2018
Date Rescinded:	N/A

REVISION RECORD

Date	Version	Revision description
27/04/2016	1	Amended as per council resolution of 27 April 2016 meeting
03/12/2018	2	Council's Code of Meeting Practice Policy renamed Council Meetings Policy which incorporated amended content from the DLGRMA's Model Meetings Procedures and amended content from Council's Code of Meeting Practice Policy

Council Meetings Policy

Policy no: PL-EX036

Updated: 3 December 2018

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1 Purpose

The purpose of the Council Meeting Policy is to set out certain procedures to ensure the Local Government principles are reflected in the conduct of Local Government statutory meetings (including General and Special Meetings) and Local Government Briefing Sessions.

It is not intended that this Policy would deal with all aspects of meeting conduct but only those required to strengthen public confidence in Local Government to deal with the conduct of Councillors in meetings.

2 Scope

As required under section 150F of the *Local Government Act 2009* (LGA) this document sets out:

- the process for how a Chairperson of a Local Government meeting may deal with instances of unsuitable meeting conduct by Councillors.
- the process for how suspected inappropriate conduct of a Councillor referred to the local government by the Independent Assessor (the Assessor) is to be dealt with at a Local Government meeting.

3 Legislative Context

- Various sections of the *Local Government Act 2009* and *Local Government Regulation 2012* as referenced in the Policy.

4 Policy Details

4.1 Process for dealing with unsuitable meeting conduct by a Councillor in a meeting

When dealing with an instance of unsuitable conduct by a Councillor in a meeting meeting or briefing session, the following procedures must be followed:

- 4.1.2 The Chairperson must decide whether or not unsuitable meeting conduct has been displayed by a Councillor.
- 4.1.3 If the Chairperson decides the unsuitable meeting conduct has occurred, the Chairperson must consider the severity of the conduct and whether the Councillor has had any previous warnings for unsuitable meeting conduct issued. If the Chairperson decides the conduct is of a serious nature, refer to 4.1.8 for the steps to be taken.
- 4.1.4 If the Chairperson decides unsuitable meeting conduct has occurred but is of a less serious

nature, the Chairperson may request the Councillor take remedial actions such as:

4.1.4.1 Ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct

4.1.4.2 Apologising for their conduct

4.1.4.3 Withdrawing their comments.

4.1.5 If the Councillor complies with the Chairperson's request for remedial action, no further action is required.

4.1.6 If the Councillor fails to comply with the Chairperson's request for remedial action, the Chairperson may warn the Councillor that failing to comply with the request may result in an order being issued.

4.1.7 If the Councillor complies with the Chairperson's warning and request for remedial action, no further action is required.

4.1.8 If the Councillor still continues to fail to comply with the Chairperson's request for remedial actions, the Chairperson may make one or more of the orders below:

4.1.8.1 an order reprimanding the Councillor for the conduct

4.1.8.2 an order requiring the Councillor to leave the meeting or briefing session, including any area set aside for the public and stay out for the duration of the meeting.

If the Councillor fails to comply with an order to leave and stay away from the meeting or briefing session, the Chairperson can issue an order that the Councillor be removed from the meeting or briefing session by an appropriate officer. The meeting or briefing session must be adjourned whilst the Councillor is being removed.

4.1.9 Following the completion of the meeting, the Chairperson must ensure:

4.1.9.1 details of any order issued is recorded in the minutes of the meeting.

4.1.9.2 if it is the third (3rd) or more order within a 12-month period made against a Councillor or the Councillor has refused to leave following an order issued to leave the meeting, these matters are to be dealt with at the next meeting of the Local Government and treated as inappropriate conduct pursuant to the LGA.

4.1.10 The Local Government's Chief Executive Officer is advised to ensure details of any order made must be updated in the Local Governments Councillor Conduct Register pursuant to the LGA.

4.1.11 Any Councillor aggrieved with an order issued by the Chairperson can move a motion of dissent for parts 4.1.2, 4.1.8 and 4.1.9 above.

4.2 Meeting process for dealing with suspected Inappropriate Conduct which has been referred to a Local Government

Pursuant to section 150AF of the LGA, after receiving a referral by the Independent Assessor or under paragraph 4.1.10.2 of this document of an instance of suspected inappropriate conduct, the Local Government must complete an investigation into the alleged conduct.

After the completion of the investigation, the Local Government must decide whether the Councillor has engaged in inappropriate conduct in a Council meeting, unless it has delegated responsibility

for this decision under section 257 of the LGA.

In accordance with section 8 of Council's Investigations Policy, should the Mayor or a Councillor/s (other than the subject of the complaint or the complainant) disagree with any recommendation accompanying the Independent Assessor's referral notice or form the opinion that the complaint should be dealt with in a way other than under this Investigations Policy, the Mayor or Councillor may request the matter be placed on the agenda of the next Council meeting to decide on the appropriate process to investigate the complaint.

When dealing with an instance of suspected inappropriate conduct which has been referred to a Local Government by the Independent Assessor, (either following the investigation or upon disagreement with any recommendation on the referral notice) the Local Government must:

- 4.2.1 Be consistent with the Local Government principle of transparent and accountable decision making in the public interest, by dealing with suspected inappropriate conduct in an open meeting of the Council. Where the complainant or other parties may be adversely affected due to the nature of the complaint, the Council may resolve to go into closed session under section 275 of the *Local Government Regulation 2012* (the LGR).
- 4.2.2 When deliberating on the issue the subject Councillor must leave the place where the meeting is being held, including any area set aside for the public. Should the complainant be a Councillor, that Councillor must inform the meeting of a personal interest and follow the conflict of interest procedures in Section 4.4.
- 4.2.3 The Local Government should then debate the issue and decide whether the accused Councillor engaged in inappropriate conduct.
- 4.2.4 If the Local Government decides that the subject Councillor has engaged in inappropriate conduct, the Local Government is then required to decide what penalty or penalties from the following orders, if any, to impose on the subject Councillor:
 - 4.2.4.1 an order that the Councillor make a public admission that the Councillor has engaged in inappropriate conduct
 - 4.2.4.2 an order reprimanding the Councillor for the conduct
 - 4.2.4.3 an order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense
 - 4.2.4.4 an order that the Councillor be excluded from a stated Local Government meeting
 - 4.2.4.5 an order that if the Councillor engages in the same type of conduct again, it will be treated as misconduct
 - 4.2.4.6 an order that the Councillor reimburse the Local Government for all or some of the costs arising from the Councillor's inappropriate conduct.
- 4.2.5 A Councillor with a material personal interest must inform the meeting of the Local Government of their material personal interest and set out the nature of the interest, including:

- 4.2.5.1 The name of the person or other entity who stands to gain a benefit, or suffer a loss, depending on the outcome of the consideration of the matter at the meeting
- 4.2.5.2 How a person or other entity stands to gain the benefit or suffer the loss
- 4.2.5.3 If the person or other entity who stands to gain the benefit or suffer the loss is not the Councillor – the nature of the Councillor's relationship to the person or entity.
- 4.2.6 The Councillor must then leave the place of the meeting and stay away while the matter is being discussed and voted on unless the subject Councillor has Ministerial approval to participate in the matter. The Councillor must not influence or attempt to influence the remaining Councillors to vote on the matter in a particular way.
- 4.2.7 Once the Councillor has left the area where the meeting is being conducted, the Local Government can continue discussing and deciding on the matter at hand.
- 4.2.8 If a Councillor at a meeting reasonably believes, or reasonably suspects that another Councillor has a material personal interest in a matter to be discussed at the meeting and has not informed the meeting about the interest, the Councillor must advise the Chairperson of the meeting, as soon as practicable, about their belief or suspicion, and the facts and circumstances that form the basis of the belief or suspicion.
- 4.2.9 When making an order, the Local Government can take into consideration any previous inappropriate conduct of the Councillor, and any allegation made in the investigation that was admitted, or not challenged and that the Local Government is reasonably satisfied is true.
- 4.2.10 The subject Councillor and where relevant the complainant Councillor, must be invited back into the place where the meeting is being held once a decision has been made.
- 4.2.11 The Local Government must ensure the meeting minutes reflect the resolution made.

4.3 Material Personal Interest

As per section 175B of the LGA:

- (1) A councillor has a material personal interest in a matter if any of the following stand to gain a benefit, or suffer a loss, (either directly or indirectly) depending on the outcome of consideration of the matter—
 - (a) the councillor;
 - (b) a spouse of the councillor;
 - (c) a parent, child or sibling of the councillor;
 - (d) a person who is in a partnership with the councillor;
 - (e) an employer, other than a government entity, of the
 - (f) an entity, other than a government entity, of which the Councillor is a member;
 - (g) another entity prescribed by regulation.
- (2) However, a Councillor does not have a material personal interest in the matter if the Councillor, or another person or entity mentioned in subsection (1), stands to gain a benefit or suffer a loss that is no greater than that of other persons in the local government area.
- (3) Subsection (1)(c) only applies to a Councillor if the Councillor knows, or ought reasonably to know, that the Councillor's parent, child or sibling stands to gain a benefit or suffer a loss.

Councillors are ultimately responsible for the timely advice of a material personal interest on matters to be discussed at a Council meeting or briefing session. When dealing with a material personal interest, Councillors must abide by the following procedures:

- 4.3.1 The Chairperson should ask the Councillor with the suspected material personal interest whether they do in fact have a material personal interest. If that is the case, the Councillor must follow the above procedures from item 4.3.1.
- 4.3.2 In the event the majority of Councillors inform a meeting or Briefing Session of a material personal interest regarding a matter:
 - 4.3.2.1 the Local Government must resolve to delegate the consideration and decision on the matter, pursuant to section 257 of the LGA; or
 - 4.3.2.2 if the matter cannot be delegated under section 257 of the LGA, the Local Government should seek Ministerial approval for the Councillors to be able to consider and vote on the matter, subject to any conditions the Minister for Local Government may impose.

- 4.3.3 Where a Councillor informs a meeting of a material personal interest in a matter, the Chairperson must ensure the minutes of the meeting (to be posted on the Council's website) record:
- 4.3.4 The name of the Councillor who has a material personal interest in the matter
- 4.3.5 The material personal interest, including the particulars mentioned by the Councillor regarding the material personal interest.
- 4.3.6 Whether the Councillor participated in the meeting, or was present during the meeting, under an approval granted by the Minister for Local Government.

4.4 Conflict of Interest

As per section 175D of the LGA:

- (1) A **conflict of interest** is a conflict that—
 - (a) is between—
 - (i) a councillor's personal interests; and
 - (ii) the public interest; and
 - (b) might lead to a decision that is contrary to the public interest.
- (2) However, a councillor does not have a conflict of interest in a matter—
 - (a) merely because of—
 - (i) an engagement with a community group, sporting club or similar organisation undertaken by the Councillor in the councillor's capacity as a Councillor; or
 - (ii) membership of a political party; or
 - (iii) membership of a community group, sporting club or similar organisation if the Councillor is not an office holder for the group, club or organisation; or
 - (iv) the Councillor's religious beliefs; or
 - (v) the Councillor having been a student of a particular school or the Councillor's involvement with a school as a parent of a student at the school; or
 - (b) if the councillor has no greater personal interest in the matter than that of other persons in the local government area.
- (3) Also, a Councillor who is nominated by the local government to be a member of a board of a corporation or other association does not have a personal interest in matters relating to the corporation or association merely because of the nomination or appointment as a member.

Councillors are ultimately responsible for informing of any personal interest where they have a real or perceived conflict of interest on matters to be discussed at Council meetings or briefing

sessions (other than ordinary business matters). When dealing with a conflict of interest, Councillors must abide by the following procedures:

- 4.4.1 A Councillor with a real or perceived conflict of interest must inform the meeting of the Local Government of their personal interest and set out the nature of the interest, including:
 - 4.4.2 The nature of the interest
- 4.4.3 If the Councillor's personal interest arises because of the Councillor's relationship with, or receipt of a gift or benefit from, another person:
 - 4.4.3.1 the name of the other person
 - 4.4.3.2 the nature of the relationship or value and date of receipt of the gift or benefit received, and
 - 4.4.3.3 the nature of the other person's interests in the matter.
- 4.4.4 The subject Councillor may themselves elect to leave the meeting while the matter is being discussed and voted on due to a perceived conflict of interest or conflict of interest. If the Councillor does not leave the meeting, they may advise the other Councillors why they believe they are able to act in the public interest while remaining in the meeting. This could include prior advice from the Integrity Commissioner on the personal interest.
- 4.4.5 The other Councillors entitled to vote at the meeting must then decide whether the subject Councillor has a conflict of interest (including a perceived conflict of interest) in the matter due to their personal interest. A Councillor who has declared a personal interest in relation to a matter, must not vote under section 175E (4) as to whether another Councillor may stay in the meeting.
- 4.4.6 If the other Councillors decide there is no conflict of interest or a perceived conflict of interest, the subject Councillor may remain in the meeting and the meeting may continue.
- 4.4.7 If the other Councillors decide there is a conflict of interest they must then decide whether the subject Councillor must leave the meeting while the matter is being discussed and voted on or can participate in the meeting in relation to the matter including voting on the matter. If the Councillor must leave the place of the meeting the Councillor must not influence or attempt to influence the remaining Councillors to vote on the matter in a particular way.
- 4.4.8 When deciding whether a Councillor may stay in a meeting and vote following the decision of a conflict of interest, the other Councillors must consider significant variables including, but not limited to:
 - 4.4.8.1 The size or significance of the benefit the subject Councillor stands to receive or benefit
 - 4.4.8.2 The benefit the subject Councillor stands to receive versus the benefit the community stands to receive from the potential decision
 - 4.4.8.3 The closeness of any relationship the subject Councillor may have with a given person or group.
- 4.4.9 In making the decision under 4.4.8, it is irrelevant how the subject Councillor intended to vote on the issue or any other issue (if known or suspected).

- 4.4.10 If a Councillor at a meeting reasonably believes, or reasonably suspects that another Councillor has a real or perceived conflict of interest in a matter to be discussed at the meeting and has not informed the meeting about the interest, the Councillor must advise the Chairperson of the meeting, as soon as practicable, about their belief or suspicion, and the facts and circumstances that form the basis of the belief or suspicion.
- 4.4.11 The Chairperson then should ask the Councillor with the suspected conflict of interest to inform the meeting of any personal interest they have in the matter and follow the above procedures from item 4.4.1.
- 4.4.12 In the event the majority of Councillors inform of a personal interest in a matter:
- 4.4.12.1 the Local Government must resolve to delegate the consideration and decision on the matter, pursuant to section 257 of the LGA, or
- 4.4.12.2 if the matter cannot be delegated under the section 257 of the LGA, the Local Government should seek Ministerial approval for the Councillors to be able to consider and vote on the matter, subject to any conditions the Minister for Local Government may impose.
- 4.4.13 Where a Councillor informs a meeting of a personal interest in a matter, the Chairperson must ensure the minutes of the meeting (to be posted on the Council's website) record:
- 4.4.13.1 The name of the Councillor who has declared the conflict of interest
- 4.4.13.2 The nature of the personal interest, as described by the Councillor
- 4.4.13.3 The decisions made under 4.4.3 and 4.4.5 above
- 4.4.13.4 Whether the Councillor participated in the meeting under an approval by the Minister
- 4.4.13.5 If the Councillor voted on the matter, how they voted
- 4.4.13.6 How the majority of Councillors voted on the matter.

4.5 Closed Meetings

Local Government and standing committees may resolve that a meeting be closed to the public if its Councillors or members consider it necessary to discuss any of the following matters:

- Appointment, dismissal or discipline of employees
- Industrial matters affecting employees
- Local Government's budget
- Rating concessions or contracts proposed to be made by the Local Government or starting or defending legal proceedings involving the Local Government
- Any action to be taken by the Local Government under the Planning Act 2016 (PA), including applications made to it under the PA
- Business for which a public discussion would be likely to prejudice the interests of the Local Government or someone else or enable a person to gain a financial advantage.

A Local Government or committee must not make a resolution (other than procedural) in a closed session meeting. If a closed session includes attendance by teleconference, the Councillor/s attending by teleconference must maintain confidentiality by ensuring no other

person can hear their conversation. Council cannot resolve under section 275 of the Regulation that a meeting at which a proposed expenses reimbursement policy is discussed, including its adoption or amendment, be closed (section 252 LGR).

- 4.5.1 To take an issue into a closed session, the Local Government must first pass a resolution to do so.
- 4.5.2 In the interests of accountability and transparency, the Local Government must specify the nature of the matter to be discussed and the reasoning of the Councillors for going into closed session.
- 4.5.3 If the matter is known in advance, the agenda should clearly identify that the matter will be considered in closed session and name the topic to be discussed and a brief explanation of why it is deemed necessary to take the issue into closed session.
- 4.5.4 The minutes of a Local Government must detail the matter discussed and reasoning for discussing the matter in closed session. The Local Government must also ensure that it complies with the statutory obligations associated with recording of passed resolutions.

5 Definitions

Term	Meaning
Amendment	In relation to an original motion, means a motion moving an amendment to that motion.
Chairperson	(a) in relation to a meeting of a Council – means the person presiding at the meeting, and (b) in relation to a meeting of a committee of a Council – means the person presiding at the.
Committee	In relation to a Council, means a committee established under clause 61 of the Regulation or the Council when it has resolved itself into a committee of the whole.
Councillor	includes a member of the governing body of a county Council.
LGA	means the <i>Local Government Act 2009</i> .
LGR	means the <i>Local Government Regulation 2012</i> .
Local government meeting	means a meeting of— (a) a local government; or (b) a committee of a local government.
Relative	in relation to a person, means any of the following: (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse or de facto partner, (b) the spouse or de facto partner of the person or of a person referred to in paragraph (a).

6 Related Documents

- Councillors Investigations Policy

7 References

- Department of Local Government, Racing and Multicultural Affairs Model Meeting Procedures (October 2018).

8 Appendix A - Meeting Procedures

8.1 Before Council Meetings

8.1.1 Frequency of Meetings (s257 LGR)

How often does the Council meet?

The Council will meet once a month as per section 257 of the Regulation.

Dates

- 1) Council meets at 9.00am on the fourth **Wednesday** of each month.
- 2) Council adopts an annual schedule of dates for Council meetings.
- 3) Any change from the date or commencement time of a Council meeting shall be by resolution of the Council or, in emergency circumstances, by the authorisation of the Mayor.
- 4) Special meetings of Council will be held as and when required.
- 5) Meeting dates for new year will be decided in the December meeting.
- 6) Section 256 (1) of The Regulation states that the local government must consider at a post-election meeting the day and time for holding other meetings.

8.1.2 Notice of Meetings to Councillors (s258 LGR)

- 1) Written notice of each meeting or adjourned meeting of the Council will be given to each Councillor at least four (4) calendar days before the day of the meeting unless it is impracticable to give the notice.
- 2) The written notice will state:
 - a. the day and time of the meeting; and
 - b. for a special meeting—the object of the meeting.
 - c. A special meeting is a meeting at which the only business that may be conducted is the business stated in the notice of meeting.

8.1.3 Notice for Special Meeting

- 1) If the Mayor receives a request in writing signed by at least three (3) Councillors, the Mayor must call a special meeting of the Council to be held as soon as practicable but in any event within fourteen (14) calendar days after receipt of the request.
- 2) The Mayor or CEO may call a special meeting of the Council to be held as soon as practicable. The Mayor or CEO will notify the Councillors at least two (2) calendar days prior to the special meeting being held.

8.1.4 Public Notice of Meetings (s277 LGR)

- 1) In January each year, Council shall publish in local newspapers the days and times of its general meetings.
- 2) Council shall display in its community contact centres a notice of the days and times when its meetings will be held.
- 3) Council shall publish any amendment to the timetable of its meetings via local newspapers and notices will be updated as necessary.
- 4) Councillors will be provided with a list of the items to be discussed at a meeting at the time the agenda for the meeting is made available to them.
- 5) The above list of items will be published on Council website.
- 6) The local government may publish the list of items to be discussed at a meeting, including any details or documents relating to an item, on the local government's website.

8.1.5 Place of Meetings (s257(3) LGR)

- 1) All Council meetings are to be held at one of Council's public offices.
- 2) Council may resolve to hold a particular meeting in a place other than Council's public offices.

8.2 Post-election meetings (s175(1) LGA)

- 1) Council must hold a meeting within fourteen (14) calendar days after:
 - a. the conclusion of each quadrennial election; and
 - b. the conclusion of a fresh election of its Councillors.
- 2) Council must, by resolution, appoint a Deputy Mayor from its Councillors (other than the Mayor):
 - a. at that meeting; and
 - b. at the first meeting after the office of the Councillor who is the Deputy Mayor becomes vacant.

8.3 Quorum and Attendance (s259 LGR)

8.3.1 Quorum for a Meeting

What is the quorum for a meeting?

- 1) The quorum for a meeting is five (5) Councillors.
- 2) Councillors who have declared an interest and have left the meeting during the consideration of an item, must not be counted for the purposes of calculating a quorum for the meeting - (s260 LGR).

8.3.2 Councillor Presence at Council Meetings (s276 LGR)

Teleconferencing/Video conferencing

- 1) **Teleconferencing** is the use of a telephone, video conferencing equipment or other means of instant communication that allows a person to take part in discussions as they happen.
- 2) Council may allow a person including a Councillor to take part in a meeting by teleconferencing by resolution of Council.
- 3) A Councillor taking part in a meeting by teleconferencing is taken to have attended the meeting if:
 - a. the Councillor was simultaneously in audio contact with each other person at the meeting; and
 - b. the Council approved the teleconferencing arrangement.

8.3.3 Quorum not Present (s259 & s261(2) LGR)

What happens when a quorum is not present?

- 1) Business may be conducted at a meeting of Council only if a quorum is present as per section 259(1) of the Regulation.
- 2) If a quorum is not present within fifteen (15) minutes after the time appointed for a meeting, the meeting may be adjourned to a later hour or another day within fourteen (14) calendar days after the day of adjournment, by:
 - a. a majority of the Councillors present; or
 - b. If only 1 Councillor is present—the Councillor; or
 - c. if no Councillors are present—the Chief Executive Officer.

8.3.4 Types of Meetings

There are five possible types of meetings each month that Councillors are required to attend:

Statutory Meetings

- a. General Council Meeting (scheduled for the fourth Wednesday each month)

Other Meetings (Non-Statutory)

- a. Special Council Meetings
- b. Briefing Sessions (scheduled in the first two weeks of each month)
- c. Councillor Workshops (scheduled on an as-required basis)
- d. Professional Development/Councillor Discussions (scheduled for one day each month).

8.3.5 Councillor Attendance at Meetings

- 1) A Councillor who is absent without Council leave from two (2) or more consecutive statutory meetings of Council over at least two (2) months, may see their office becoming vacant. (s162(1)(e) LGA 2009)

- 2) A Councillor who is absent without approved leave from meetings as stated in section 5.3.5 (1) above may be considered as exhibiting inappropriate Conduct (s176(4) LGA2009).
- 3) Leave is to be approved by the Mayor.

NOTE: Leave from Council Meetings will not be unreasonably withheld if valid reasons for leave are provided for approval.

8.3.6 Who Is entitled to Attend Council Meetings (s274 LGR)

- 1) All Council meetings are open to the public and the media unless Council has resolved that a meeting is to be closed as per section 275 of the Regulation.

8.3.7 Public participation at meetings including Deputations

- 1) A member of the public or deputation must not participate in the business at a meeting of the Council unless the member of the public or deputation has been given approval by the Chairperson.
 - 2) A member of the public or deputation wishing to attend and address a meeting of Council shall apply in writing to the CEO not less than seven (7) business days before the meeting. The CEO, on receiving an application from a member of the public or a deputation shall notify the Chairperson who shall determine whether the member of the public or deputation may be heard. The CEO shall inform the member of the public or deputation of the determination in writing. Where it has been determined the member of the public or deputation will be heard, a convenient time shall be arranged for that purpose, and an appropriate time period allowed.
- Subclause (1) does not apply to the consideration of business at a meeting if the business:
- (a) is already before, or directly relates to a matter that is already before, the Council, or
 - (b) is a matter or topic put to the meeting by the Chairperson.

In each meeting, time may be required to permit members of the public to address the Council in accordance with sub clause (2). The time allotted shall not exceed five minutes for an individual (unless previously approved). Should there be more than one person wishing to address Council on an issue, there may be no more than three speakers permitted to speak at any one meeting and the time must not exceed 15 minutes in total. The right of any individual to address the Council during this period shall be at the absolute discretion of the Chairperson.

If any address or comment is irrelevant, offensive, or unduly long, the Chairperson may require the person to cease making the submission or comment.

For any matter arising from such an address, Council may take the following actions:

- (a) deal with the matter immediately
- (b) place the matter on notice for discussion at a future meeting
- (c) note the matter and take no further action.

If a member of the public or deputation, other than the appointed speakers, interjects or attempts to address the Council, the Chairperson may finalise the deputation. The Chairperson may terminate an address by the member of the public or a person in a deputation at any time where:

- (d) the Chairperson is satisfied that the purpose of the address has been sufficiently explained to the Councillors at the meeting or the time period allowed has expired, or
- (e) the person uses insulting or offensive language or is derogatory towards Councillors or staff members.

The CEO is responsible for the deputation including that the appointed speaker/s are notified in writing of developments or future actions as appropriate.

8.4 Presiding over Meetings of Council

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

8.4.2 Councillor 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 Chief Executive Officer or, in his or her absence, an employee of the Council designated by the Chief Executive Officer to conduct the election, or
 - b. if neither of them is present at the meeting or there is no Chief Executive Officer 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 (2) 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.

8.4.3 Chairperson to have Precedence

- 1) When the chairperson rises during a meeting of a Council
 - a. every Councillor present must be silent to enable the chairperson to be heard without interruption.

8.4.4 Chairperson's Duty with Respect to Motions

- 1) It is the duty of the chairperson at a meeting of a Council to receive and 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.
- 4) The Chairperson may rule that a proposed motion is out of order if the proposed motion:
 - a. is vague and equivocal in its language;
 - b. is the direct negative of a resolution just passed by the meeting;
 - c. proposes an action that is unlawful;
 - d. is ultra vires in that it is outside the scope of the meeting;
 - e. contains defamatory statements;
 - f. is inconsistent with a resolution just adopted;
 - g. is unnecessary in that it proposes a course of action or policy already resolved upon by the meeting;
 - h. is vexatious and proposed only as a way to impede the orderly transaction of business.

8.4.5 Requirement of the Chairperson

The Chairperson shall:-

- 1) require that only one (1) person speaks at once during a Council meeting;
- 2) ensure that all persons attending the meeting do not unduly disrupt when others are permitted by the Chairperson to address a meeting;
- 3) ensure all authorised persons are given an equal opportunity to address the meeting generally in the order of request.

8.4.6 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 the clauses immediately above, may, through a motion of dissent, challenge a ruling from the Chairperson.

8.4.7 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) Councillors shall refrain from the use of offensive or inappropriate words in reference to any Councillors, employees of Council and members of the public.
- 3) Councillors shall not make imputations of improper motives or personal reflections on Councillors, employees of Council and members of the public, consistent with Code of Conduct in the Act.

8.5 Meeting Agenda and Business

8.5.1 Order of Business

Order of Business

- 1) Currently the order of business followed by Council is:
 - a. Acknowledgement of Country
 - b. Prayer & Condolences
 - c. Attendance
 - d. Apologies for non-attendance
 - e. Reading & Confirmation of Minutes of previous meeting(s)
 - f. Actions from previous Council meeting
 - g. Declarations of Interest
 - h. Mayoral Minute
 - i. Reading and Consideration of Correspondence
 - j. Reception and Reading of Petitions & Joint Letters
 - k. Directorate Reports
 - i. Executive Services
 - ii. Infrastructure Services
 - iii. Sustainable Development
 - iv. Corporate and Community Services
 - l. Reports of Deputations or Conferences & Report from Delegates appointed by Council to Other Bodies
 - m. Notice of Motion
 - n. General Business
 - o. Consideration of Confidential Business Items
- 2) At a **Post-Election Meeting** of Council, the following items shall be included in the Agenda:
 - a. Prayer
 - b. Election of Deputy Mayor
 - c. Fixation of Dates and Times of General Meetings of Council for the following twelve months.
 - d. Appointment of Local Disaster Management Committee representatives

8.5.2 Business Paper for Council Meetings

Agenda and business papers for Council meetings

- 1) The Chief Executive Officer 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. any matter or topic that the Mayor or 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 Chief Executive Officer 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 Chief Executive Officer, the business is (or the implementation of the business would be) unlawful. The Chief Executive Officer must report (without giving details of the item of business) any such exclusion to the next meeting of the Council.
- 3) The Chief Executive Officer must cause the agenda for a meeting of the Council to be prepared and distributed to Councillors at least six (6) calendar days before the day of the meeting.
- 4) The Chief Executive Officer must ensure that the details of any item of business are included in a business paper for the meeting concerned.

Close of Business Paper Agenda

- 1) Receipt of business paper reports and notices of business by a Councillor closes six (6) calendar days before the meeting at 4:00pm, or as otherwise determined by the Chief Executive Officer.
- 2) Councillor's notice(s) of business shall be submitted in writing to the Chief Executive Officer.

8.5.3 Availability of Business Papers

Public notice of business papers

- 1) Council must have available a list of items to be discussed for the public at its offices for inspection at the time the agenda for the meeting is made available to Councillors.
- 2) In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the Chief Executive Officer, is likely to take place when the meeting is closed to the public (Confidential Item):
 - 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).

Business Papers (Councillor Access) (s258(1) & (5) LGR)

- 1) The business papers for Council meetings shall be delivered to Councillors at least six (6) calendar days prior to the meeting in electronic format via email.
- 2) The business papers will also be made available on the Councillors' network drive.

Business Papers (Public Access) (s277(5)& (6) LGR)

- 1) Copies of the list of items on the agenda are to be available for inspection to the public after it is made available to Councillors.
- 2) The business papers may be made available on Council's website after the business papers are made available to Councillors.

8.5.4 Availability of Other Materials

Public access to correspondence and reports

- 1) A Council 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 were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.

8.5.5 Tabling of Correspondence

- 1) Letters submitted to Council requesting that they be tabled at a Council meeting shall be tabled and a copy included in the business paper for that meeting.

8.5.6 Petitions

- 1) A Councillor may table a petition to the Council. The publication of petitions in Council's business papers shall occur only in compliance with the *Information Privacy Act 2009*.
- 2) Where a Councillor presents a petition to a meeting of Council no debate on or in relation to it shall be allowed and the only motion which may be moved is that the petition be received; or received and referred to an officer for consideration and a report to Council; or not be received because it is deemed invalid.

8.5.7 Giving Notice of Business

- 1) *A Council must not transact business at a meeting of the Council:*
 - a. unless a Councillor has given notice of the business in writing within seven (7) calendar days before; and
 - b. unless notice of the business has been sent to the Councillors.
- 2) Subclause (1) does not apply to the consideration of business at a meeting if the business:
 - a. is already before, or directly relates to a matter that is already before, the Council, or
 - b. is the election of a chairperson to preside at the meeting, or
 - c. is a matter or topic put to the meeting by the chairperson.

8.5.8 Agenda for Special Meetings (s258(3) LGR)

- 1) As per s 258(3) of the Regulation, a *special meeting* is a meeting at which the only business that may be conducted is the business stated in the notice of meeting.

8.6 Motions

8.6.1 Notice of Motion

Notices of Motion

- 1) Notices of Motions shall be lodged in writing with the Chief Executive Officer or their delegate **eight (8) calendar days** prior to the closure of the business paper agenda for the meeting of Council at which the Notices of Motion are to be considered.
- 2) Councillors shall ensure, where it is intended that employees of the Council be asked to carry out some specific defined action that a Notice of Motion is written in such a way that, if carried, the motion carries clear and unambiguous direction.

Other motions

- 1) The rules applying to the content of Notices of Motion apply to the content of any other motion or amendment moved at a Council meeting.

8.6.2 Notice of Motion - Absence of Mover

- 1) In the absence of a Councillor who has placed a notice of motion on the agenda for a meeting of a Council:
 - a. any other Councillor may move the motion at the meeting, or
 - b. the chairperson may defer the motion until the next meeting of the Council at which the motion can be considered.

8.6.3 Motions to be Seconded

- 1) A motion or an amendment cannot be debated unless or until it has been seconded.

8.6.4 Dealing with (Debating) Motions

Mover

- 1) A Councillor proposing a motion is to be provided with a right to speak to introduce the proposition.
- 2) In the absence of the proposition being seconded, the mover may exercise their right to speak to obtain the support of a seconder for the proposition.
- 3) The mover's right to speak shall only be exercised at the time the proposition is made. The mover cannot reserve this right to be exercised at a later stage of the debate.
- 4) The mover of a motion shall be permitted no more than five (5) minutes to introduce their motion.
- 5) If the motion is accepted and debated, the mover is to be provided with a right of reply.

Debate

- 1) Upon the mover exercising, waiving, or deferring their right of address, the Chairperson shall invite Councillors to debate the motion, in the order of one speaker against the motion and one speaker for the motion.

- 2) Speakers "For" or "Against" a motion shall be permitted no more than three (3) minutes to address the meeting.
- 3) The sequence of against and for is followed until debate is closed. The close of debate is reached should one of the following conditions emerge:
 - a. only speakers for one particular side of the debate are now emerging so that the previous consecutive speakers were on the same side of the debate;
 - b. the time allotted has expired;
 - c. the limit of number of speakers allowed to speak on the motion has been reached;
 - d. a procedural motion that "the motion now be put" has been successful.

8.6.5 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.

8.6.6 Right of Reply – Mover

- 1) The mover of a motion shall be permitted no more than three (3) minutes to provide their "right of reply".
- 2) Once the mover has exercised their Right of Reply all further debate on the substantive motion ceases.
- 3) In exercising their Right of Reply the following conventions shall be observed by the mover:
 - a. the mover can waive their Right of Reply and the meeting can go straight to the vote;
 - b. the purpose of the Right of Reply is to respond to any points raised in the debate and to present a final brief summary of the case for the motion;
 - c. not to introduce any new material or arguments.

8.6.7 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 five (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 five (5) minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

8.6.8 Variations to Motions

- 1) A Councillor may seek to vary a motion by:
 - a. obtaining the unanimous consent of Council; or
 - b. proposing an amendment to the motion.
- 2) If the meeting is considering a motion which is difficult to comprehend and of a complex structure, the Chairperson has the discretion to separate the constituent parts of the substantive motion. The meeting may agree to deal with them in their separate parts as if they were separate motions.

8.6.9 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 affects 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.

8.6.10 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.
- 2) An amendment must be moved and seconded.
- 3) To be accepted as an amendment, it must relate and be relevant 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 mover and seconder.

8.6.11 Repeal or Amend a Resolution (s262 LGR)

1) A rescission motion means a proposal under section 262 of the Regulation to either repeal or amend a previous resolution of Council.

2) If a resolution of Council has been acted upon a rescission motion or amendment cannot be accepted.

3) A resolution which has been passed by the Council shall not be altered or rescinded, except by a motion to that effect (a rescission motion) of which notice has been given.

4) A rescission motion must be signed by at least three Councillors.

5) Where a rescission motion is not handed in at a Council meeting, the written notice, signed by three Councillors, must be received by the CEO no later than close of business two days following the General or Special Meeting.

6) If a notice of rescission is lodged, no decision of Council may be acted upon until the rescission motion has been determined. Where action on a rescission motion is required before the motion can come before an ordinary Council meeting, a special meeting of Council may be called to deal with that one issue in accordance with clause 5.1.3 of this Code. The special meeting would have to be held at least 5 calendar days after the rescission motion is submitted.

7) Only one rescission motion relating to an original motion may be put forward by any Councillor.

8) A rescission motion on any matter can only be lost once before a three month ban is placed on any Councillor moving a motion to the same effect.

8.6.12 How Subsequent Amendments may be Moved

1) 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.

8.6.13 Motions without Notice

Giving notice of business

1) 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.

2) Such a motion can be moved without notice.

- 3) Only the mover of a motion referred to in subclause (1) can speak to the motion before it is put.

8.6.14 Defeated Motions

If a motion at a Council meeting has been lost, a motion having the same effect may not be brought forward within three (3) months, unless by a report from Council.

8.7 Procedural Motions

8.7.1 General Procedural Motions

- 1) A procedural motion is a motion that refers to the conduct of a meeting.
- 2) Procedural motions are not subject to the Notice of Motion requirements.
- 3) In general, a procedural motion requires a seconder.
- 4) There is no debate on a procedural motion.
- 5) A procedural motion has precedence over substantive motions and must be put to the meeting for a decision.

8.7.2 Moving Motions by Group (En Bloc)

Southern Downs Regional Council is committed to upholding the principles of open, transparent and informed decision-making in accordance with the principles of Local Government Act 2009.

In the interests of maintaining efficiency in Council operations, the Council utilises *en bloc* voting during its meetings. Voting *en bloc* can be defined as voting on a motion to adopt, by one resolution, a number of items, motions or recommendations. This Council uses *en bloc* voting as a device to efficiently address matters that the Elected Body believe can be determined without debate.

8.7.2.1 Matters that can be dealt with *en bloc*

The Council can utilise *en bloc* voting for a limited range of Agenda items and, in particular, for:

- 1) items that are presented for information purposes only;
- 2) reports which require only receipt and noting; and
- 3) recommendations made in an officer's report that are not contentious and do not require discussion or debate.

If an item has been recommended to be addressed *en bloc* and it is identified later in the meeting that the recommendation is likely to give rise to amendment(s) to the motion, before the recommendation has been moved and seconded, the recommendation should be removed from the *en bloc* matters and addressed separately.

8.7.2.2 Matters that must not be dealt with *en bloc*

The Council will not utilise *en bloc* voting in regards to the following matters which, to preserve integrity in the decision-making process, must be considered individually.

This includes matters:

- 1) in respect of which any Elected Member and, in particular, to make informed and representative decisions has indicated that he/she wishes to debate, ask a question or to raise a point of clarification;
- 2) which are incapable of delegation in accordance with the Local Government Act 2009 and the Local Government Regulation 2012;
- 3) which require the Council to form an opinion as to the subject matter of the motion (for example, Requests for partial relief from payment of water consumption charges);
- 4) where there is a recommendation to apply the confidentiality provisions of Section 275 of the Local Government Regulation 2012; and
- 5) in respect of which a related decision will, or is likely to effect the rights, interests or legitimate expectations of a third party, individual or organisation (for example, a Decision Notice, a decision to grant or revoke a permit or licence or, to grant an application for a community grant).

It also remains open to an Elected Member or officer to request that an Item be removed from the list of items to be considered *en bloc*.

8.7.3 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 under subclause (1). 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.

8.8 Adjournment of Meetings (s261(2) LGR)

- 1) The majority of Councillors present at a meeting of a Council may adjourn the meeting to a later hour of the same day or to a later day.
- 2) If a quorum is not present within 15 minutes after the time appointed for a meeting, the meeting may be adjourned to a later hour or another day within 14 days after the day of adjournment, by:
 - a. a majority of the Councillors present; or
 - b. if only 1 Councillor is present—the Councillor; or
 - c. if no Councillors are present—the chief executive officer.

8.8.1 Motion to Adjourn Meeting

- 1) A Councillor may move the procedural motion "that the meeting be adjourned".
- 2) The motion before being put to the vote must be seconded by a Councillor.
- 3) The mover of the motion may address the meeting on the motion.
- 4) No further debate on the motion is permitted.

8.8.2 Amendment to Adjourn Meeting Motion

- 1) Amendments to the motion are permitted, but only to the extent that they relate to the timing and place of reconvening the meeting.
- 2) Amendments to the motion to adjourn a meeting are to be moved and seconded.
- 3) The mover of the amendment may address the meeting as to the content of the proposed amendment.
- 4) Any address to the motion of adjournment or amendment is limited to three (3) minutes.

8.8.3 Re-convening an Adjourned Meeting

- 1) The Notice of Meeting provisions do not apply to a re-convened meeting.
- 2) A re-convened meeting will commence in accordance with any motion or amendment and will continue as if there had been no break in the proceedings of the meeting.
- 3) To the extent that it is practical, public notice of the re-convened meeting is to be given.
- 4) In the circumstances of an adjourned meeting for which there was no specified time and place for the meeting to be re-convened, Council will deal with any unfinished business for which notice was given at the next ordinary meeting of Council.

8.9 Voting and Decisions of Council

8.9.1 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.

8.9.2 Voting Entitlements of Councillors and Chairperson's Casting Vote (s280 LGR)

What are the voting entitlements of Councillors?

- 1) At a meeting of Council:
 - a. voting must be open; and
 - b. a question is decided by a majority of the votes of the Councillors present; and
 - c. each Councillor present has a vote on each question to be decided and, if the votes are equal, the Councillor presiding has a casting vote; and

- d. if a Councillor present fails to vote, the Councillor is taken to have voted in the negative.

8.9.3 Divisions (s272(2)(b) LGR)

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 a Councillor calls for a division.
- 2) When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The Chief Executive Officer 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.

8.10 Minutes and access to information (s272 LGR)

8.10.1 Minutes of Meetings

- 1) The Chief Executive Officer must ensure minutes of each meeting are taken under the supervision of the person presiding at the meeting.
- 2) Minutes of each meeting must include:
 - a. the names of Councillors present at the meeting; and
 - b. if a division is called on a question—the names of all persons voting on the question and how they voted.
 - c. details of Material Personal Interests in accordance with section 3.7 of the Council Meeting Procedures.
 - d. details of Conflicts of Interests in accordance with section 4.11 of the Council Meeting Procedures.
 - e.
- 3) At each meeting, the minutes of the previous meeting must be:
 - a. confirmed by the Councillors present; and
 - b. signed by the person presiding at the later meeting.
- 4) A copy of the minutes of each meeting:
 - a. must be available for inspection by the public, at Council's public offices and on its website, within ten (10) calendar days after the end of the meeting; and
 - b. when the minutes have been confirmed—must be available for purchase at the Council's public offices.
- 5) The price for purchasing the minutes must not be more than:
 - a. the cost to the Council of having the copy printed and made available for purchase; and
 - b. if the copy is supplied to a purchaser by post—the cost of postage.

8.10.2 Audio and visual recording of meetings

- 1) The local government may direct that an audio or video recording of a meeting of the local government be made for the purpose of verifying the accuracy of

the minutes of the meeting. An audio or video recording made under this section —

- a. may only be used for the purpose of verifying the accuracy of the minutes of the meeting;
- b. after being used for that purpose, must be destroyed or dealt with as directed by the local government; and
- c. other attendees can record meetings at the sole discretion of the Chairperson.

8.10.3 Recording of reasons for particular decisions (s273 LGR)

1) This section applies if a decision made at a meeting is inconsistent with a recommendation or advice given to the Council by an advisor of the Council and either or both of the following apply to the decision:

- a. the decision is about entering into a contract the total value of which is more than the greater of the following:
 - i. \$150,000 exclusive of GST;
 - ii. 1% of the Council's net rate and utility charges as stated in the Council's audited financial statements included in the Council's most recently adopted annual report;
- b. the decision is inconsistent with:
 - i. the policy or approach ordinarily followed by the Council for the type of decision; or
 - ii. a policy previously adopted by the Council by resolution, whether or not as required by an Act, and still in force.

Examples of decisions to which subsection (1) might apply—

- *the grant of a licence, permit or approval, however named, under an Act or local law*
- *the grant of a concession, rebate or waiver in relation to an amount owed to the Council*
- *disposing of land or a non-current asset*

2) An advisor, of Council, is a person—

- a. who is an employee of Council or is otherwise engaged to provide services to Council; and
- b. whose duties include giving a recommendation or advice.

3) The chief executive officer must ensure the minutes of the meeting include a statement of the reasons for not adopting the recommendation or advice.

8.11 Citizenship Ceremonies

- 1) That, by arrangement with the recipient(s), citizenship ceremonies shall be held at 10:30am on the day of any General meeting of Council, or as otherwise determined by the Chief Executive Officer.

9 Appendix B - Closed Council Announcements (s275 LGR)

For Going Into Closed Meeting

Meeting In Camera

Recommendation

THAT the meeting move into camera pursuant to Section 275(1) (*Type in subsection*) of the Local Government Regulation 2012 for the purposes of discussing (*Type in reason*). Council noted that it is the intent by doing so to keep all the matters discussed during the session strictly confidential.

Meeting moved into camera at (*time*).

For Going Out of Closed Meeting

Meeting out of Camera

Resolved

THAT the meeting move out of camera at (*time*).

10 Appendix C – Council Meeting Public Participation Request Form (including Deputations)



COUNCIL MEETING PUBLIC PARTICIPATION REQUEST FORM (INCLUDING DEPUTATIONS)

Please complete, sign and present this form to the Chief Executive Officer seven (7) working days prior to the Meeting.

NAME: PHONE:

ADDRESS:

EMAIL ADDRESS:

REPRESENTING:
(Self/Name of Organisation/Other Party)

SUBJECT FOR DISCUSSION:

GUIDELINES FOR PUBLIC PARTICIPATION AND DEPUTATIONS IN COUNCIL MEETINGS

1. A person can address Council for a maximum period of five minutes, however should there be more than one person wishing to address Council on an issue, there may be no more than three speakers permitted to speak at any one meeting and the time must not exceed 15 minutes in total.
2. Members of the public may address Council on any issue, however, should there be an agenda item, there must be a direct link between the member of the public wishing to address Council and the substance of the agenda item.
3. Public participation cannot be used to request reports from the Mayor, Councillors or staff, nor used to address matters in the Minutes of an earlier meeting or other matters already dealt with at the meeting.
4. Persons speaking in a Council Meeting may, with the permission of the Chairperson, use appropriate materials or documents to support their position, but may not table documents to be actioned.
5. Any person making use of the public participation is required to observe the same standards required of a Councillor, specifically the person shall:
 - a. obey the directions of the Chairperson, and
 - b. not use any behaviour or language inconsistent with good order and decorum, and
 - c. not make personal reflections or impute improper motives to Councillors and/or staff.

In signing this request I acknowledge and agree to abide by the Council Meeting Policy, specifically section 8.3.7 and recognise that I am speaking in a Council meeting and that Council meetings are minuted.

SIGNATURE OF SPEAKER

Office Use Only
Received by: Date: Time:

For Enquiries - Phone 1300 507 372 OR Forms may be emailed to: mail@sdr.c.qld.gov.au



Councillors Investigation Policy

Policy Number:	PL-GV085
Department:	Corporate Services
Section:	Governance
Responsible Manager:	Manager Corporate Services
Date Adopted:	3 December 2018
Date to be Reviewed:	3 December 2019
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Date	Version	Revision description

Councillors Investigation Policy

Policy no: PL-GV085

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1 Purpose

This is Southern Downs Regional Council's Investigation Policy for how complaints about the inappropriate conduct of Councillors will be dealt with as required by the section 150AE of the *Local Government Act 2009* (the LGA). However, this policy does not relate to more serious Councillor conduct.

2 Scope

This investigation policy applies to investigations and determinations of a complaint about the alleged inappropriate conduct of a Councillor/s which has been referred by the Independent Assessor.

3 Legislative Context

- Sections 150D to 150DZ of the *Local Government Act 2009*

4 Policy Details

4.1 Confidentiality

Matters of suspected inappropriate conduct of a Councillor are confidential except as otherwise specifically provided for either in the LGA or this investigation policy.

Note: It must be kept in mind that the matter is an allegation only and not yet proven. Further, there will be circumstances where the detail of the referral will need to remain confidential to the Local Government. Any release of confidential information that a Councillor knows, or should reasonably know, to be confidential to the local government may be contrary to section 171(3) of the LGA and dealt with as misconduct.

4.2 Natural Justice

Any investigation of suspected inappropriate conduct of a Councillor/s must be carried out in accordance with natural justice. An overview of the principles of natural justice follows.

"Natural justice" or procedural fairness, refers to three key principles:

- the person being investigated has a chance to have his or her say before adverse formal findings are made and before any adverse action is taken (fair hearing)
- the investigator(s) should be objective and impartial (absence of bias), and
- any action taken is based on evidence (not suspicion or speculation).

A fair hearing means the Councillor who is the subject of the suspected inappropriate conduct matter must be told of the case against them including any evidence and be provided with an opportunity to put their case in writing with the investigation report provided to the Councillors as part of the meeting agenda.

Councillors Investigation Policy

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An absence of bias means that any investigation must not be biased or be seen to be biased in any way. This principle embodies the concept of impartiality.

Decisions based on evidence requires that the investigation should not be based on mere speculation or suspicion but instead must be based upon evidence material.

A proper examination of all issues means the investigation must give a proper and genuine consideration to each party's case.

4.3 Assessor's referral

The Council may receive from the Assessor a referral notice about the suspected inappropriate conduct of a Councillor/s. Council may also receive referrals of suspected inappropriate conduct directly from members of the public, however these will be referred to the Independent Assessor within five business days. Council will advise the complainant that the details of the matter have been referred to the Independent Assessor.

4.4 Receipt of Assessor's referral

On receipt of a referral notice about the suspected inappropriate conduct of a Councillor/s from the Assessor, the Council's Chief Executive Officer will forward a copy of that referral notice to the Mayor and all Councillors as a confidential document.

Should the Mayor or a Councillor/s (other than the subject of the complaint or the complainant) disagree with any recommendation accompanying the Assessor's referral notice or form the opinion that the complaint should be dealt with in a way other than under this policy, the Mayor or Councillor may request the matter be placed on the agenda of the next Council meeting to decide on the appropriate process to investigate the complaint. Such a request must be made in accordance with the Council's meeting procedure requirements.

4.5 Investigator

Unless otherwise resolved by Council, the Mayor will manage the investigation of suspected inappropriate conduct of other Councillors.

If the suspected inappropriate conduct involves conduct that in the circumstances, the Mayor believes, it is in the best interests of the investigation to refer the matter for external investigation, then the Chief Executive Officer must refer the suspected inappropriate conduct to the President of the Tribunal to investigate and make recommendations to the Council about dealing with the conduct.

If the suspected inappropriate conduct involves:

- an allegation about the conduct of the Mayor, or
- the Mayor as the complainant, then

the Chief Executive Officer must refer the suspected inappropriate conduct to the President of the Tribunal to investigate and make recommendations to the Council about dealing with the conduct.

After the appointment of an investigator (either the Mayor or an external investigator), Council's Chief Executive Officer will provide the complainant(s) and the subject Councillor/s with a written notice that states:

- a reference to this Policy; and
- an estimated timeframe for the investigation and outcome as per this Policy;
- that the complainant(s) and subject Councillor may be required to provide further information about the suspected inappropriate conduct; and
- that the complainant(s) and subject Councillor may be requested to attend an early resolution meeting/s in the event that the matter is deemed appropriate for resolution prior to the investigation (refer to section 10 of this Policy).

4.6 Early resolution

Before beginning an investigation, the investigator must consider whether the matter is appropriate for resolution prior to the investigation. This consideration includes any recommendation made by the Assessor.

A matter is only appropriate for early resolution if the parties to the matter agree to explore early resolution.

The investigator may engage an independent person with suitable qualifications or experience to facilitate this process.

If the matter cannot be resolved, the matter will then be investigated as outlined in this investigation policy.

If the matter is resolved prior to investigation, the investigator will advise the Chief Executive Officer of this outcome. In turn, the Chief Executive Officer will advise the Mayor (if the Mayor is not the investigator) and all Councillors that the matter has been resolved. The Chief Executive Officer will also update the Councillor Conduct Register to reflect this.

4.7 Timeliness

The investigator will make all reasonable endeavors to complete the investigation and provide a report for inclusion on the agenda of a Council meeting no more than eight weeks after the receipt of the complaint.

Note: If the investigator is of the opinion that it may take longer than eight weeks to complete the investigation, the matter should be raised with the Mayor (if the Mayor is not the investigator) to seek an extension of time.

In the event where the investigation is likely to exceed the above timeframe and providing Council has the complainant's contact details, Council will notify the Independent Assessor, the subject Councillor of the following in writing:

- a) the reasons for the delay; and
- b) an estimated date of completion.

4.8 Assistance for investigator

If the Mayor is the Investigator of a matter of suspected inappropriate conduct, the Mayor may use section 170A of the LGA to seek assistance during the investigation (refer to Council's Acceptable Request Guidelines for further information).

The Mayor is authorised by Council to expend money as reasonably needed to engage contractors in accordance with the Council's procurement policy.

4.9 Possible misconduct or corrupt conduct

If during the course of an investigation the investigator obtains information which indicates a Councillor/s may have engaged in misconduct, the investigator must cease the investigation and advise the Chief Executive Officer. The Chief Executive Officer will then notify the Assessor of the possible misconduct.

If during the course of an investigation, the investigator obtains information which indicates a Councillor/s may have engaged in corrupt conduct, the investigator must cease the investigation and advise the Chief Executive Officer. The Chief Executive Officer will then notify the Crime and Corruption Commission of the possible corrupt conduct.

Instances of suspected misconduct or corrupt conduct may be referred back to the Council if determined by the Assessor or Crime and Corruption Commission to be inappropriate conduct.

4.10 Completion of investigation

On the completion of an investigation, the investigator will provide a report to the Council outlining the investigation process, the investigation findings, any recommendations about dealing with the conduct and a record of the investigation costs.

The Council will consider the findings and recommendations of the investigator's report and decide whether the Councillor has engaged in inappropriate conduct and, if so, what action it will take under section 150AH of the LGA.

Provisions for internal and external review of decisions are set out in sections 150CO to 150CS of the LGA.

Wherever possible, Council must be consistent with the Local Government principle of transparent and accountable decision making in the public interest, by dealing with suspected inappropriate conduct in an open meeting of the Council. As per section 2.1 of the Councillor Meeting Procedures, Council may consider the findings and recommendations of the investigator's report in a closed session so that the complainant or other parties are not adversely affected due to the nature of the complaint.

4.11 Notice about the outcome of investigation

After an investigation is finalised, the Council must give notice about the outcome of the investigation to the Independent Assessor, the subject Councillor and the person who made the complaint about the Councillor/s' conduct that was the subject of the investigation.

4.12 Councillor conduct register

The Chief Executive Officer of the respective Council must ensure decisions about suspected inappropriate conduct of a Councillor/s must be entered into the Councillor conduct register.

Where a complaint has been resolved under section 10 of this policy, the Chief Executive Officer will update the register to reflect that the complaint was withdrawn.

4.13 Expenses

Council must pay any reasonable expenses incurred by Council associated with the informal early resolution or investigation of suspected inappropriate conduct of a Councillor including any costs of:

- the President of the Tribunal in undertaking an investigation for Council;
- a Mediator engaged under this investigation policy;
- a Private Investigator engaged on behalf of or by the Investigator;
- travel where the investigator needed to travel to undertake the investigation or to interview witnesses;
- seeking legal advice;
- engaging an expert.

Note: Council may order the subject Councillor to reimburse it for all or some of the costs arising from the Councillor's inappropriate conduct where it has been found that the Councillor breached the provisions of the Local Government Act 2009.

Any costs incurred by complainants or the subject Councillor/s will not be met by Council.

5 Definitions

Term	Meaning
Assessor	means the Independent Assessor appointed under section 150CV of the LGA.
Behavioural standard	means a standard of behaviour for Councillors set out in the Code of Conduct approved under section 150E of the LGA.
Conduct	Includes— (a) failing to act; and (b) a conspiracy, or attempt, to engage in conduct.
Councillor conduct register	means the register required to be kept by Council as set out in section 150DX of the LGA.
Inappropriate conduct	see section 150K of the LGA.
Investigation policy	refers to this policy, as required by section 150AE of the LGA.
Investigator	means the person responsible under this investigation policy for carrying out the investigation of the suspected inappropriate conduct of a Councillor or Mayor.
LGA	means the <i>Local Government Act 2009</i> .
Local government meeting	means a meeting of— (a) a local government; or (b) a committee of a local government.
Misconduct	see section 150L of the LGA.
Model procedures	see section 150F of the LGA.
Natural justice	a set of principles to ensure fair and just decision making, including a fair hearing, an absence of bias, decisions based on evidence, and the proper examination of all issues.
Referral notice	see section 150AC of the LGA.
Tribunal	means the Councillor Conduct Tribunal as established under section 150DK of the LGA.
Unsuitable meeting conduct	see section 150H of the LGA.

6 Related Documents

- Council Meeting Policy
- Acceptable Request Guidelines

7 References

- Department of Local Government, Racing and Multicultural Affairs example Investigations Policy (October 2018).



Councillors Acceptable Requests Policy

Policy Number:	PL-EX086
Department:	Executive Services
Section:	Governance
Responsible Manager:	Manager Corporate Services
Date Adopted:	3 December 2018
Date to be Reviewed:	3 December 2019
Date Reviewed:	N/A
Date Rescinded:	N/A

REVISION RECORD

Date	Version	Revision description

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1 Purpose

The purpose of this policy is to establish guidelines for Councillors and staff about provision of advice to help Councillors make decisions and provision of information to Councillors.

2 Scope

This code applies to the Mayor, Councillors and all employees of the Southern Downs Regional Council.

3 Legislative context

- Section 170 – 170A of the *Local Government Act 2009*

4 Policy details

4.1 Interaction with Council staff

Pursuant to section 170 of the *Local Government Act 2009* (the LGA), no Councillor, including the mayor, may give a direction to any local government employee other than the Chief Executive Officer unless otherwise outlined in legislation. In no circumstances shall Councillors influence, intimidate or request preferential treatment when seeking advice and assistance on Council business from any Council employee.

4.2 The way advice requests may be made

Pursuant to section 170A (1) of the LGA, a Councillor may ask a local government employee to provide advice to assist the Councillor to carry out his or her responsibilities under the LGA. Further, section 170 (2) of the LGA states that a Councillor may ask the Chief Executive Officer to provide information relating to the local government.

Requests by Councillors for advice or assistance from a local government employee as per section 170A (1) and (2) of the LGA should be submitted to either:

- a) the Chief Executive Officer; or
- b) where appropriate, to the relevant Director; or
- c) the Personal Assistant to the Mayor and Chief Executive Officer; or
- d) an Officer as nominated by the Chief Executive Officer.

When submitting a request, a Councillor must comply with any reasonable requirements of the Council Officer to either:

- a) submit their request in writing (e.g. letter, memo or email); and/or
- b) clarify the purpose of their request.

In accordance with section 170A (8) of the LGA, all local government employees must make all reasonable endeavours to comply with a request made pursuant to this Policy.

4.3 Refusal of requests for information or advice

Council officers may refuse to comply with requests for information or advice where:

- a) supply of the information would breach section 170A(3) of the LGA;
- b) the information relates to a public interest disclosure (as defined in the *Public Interest Disclosure Act 2010*);
- c) the information is not reasonably available to the Officer;
- d) the Officer does not feel qualified to provide the requested advice;
- e) the Officer is not satisfied that the information is required to assist the Councillor carry out his or her responsibilities under the LGA; or
- f) the Officer considers that use of resources to comply with the request would breach Council's Caretaker Period Procedure.

5 Definitions

Term	Meaning
Advice	Information that can be provided fairly quickly and does not require more than thirty minutes of work from one person to provide.
Information	Includes documents or records held by Council in printed or electronic form.
Reasonable requests	Requests which, in the opinion of the CEO, will not cause any unacceptable increase in workload or delay in the performance of normal day to day services of council officers.

6 Related Documents

- Code of Conduct for Councillors in Queensland, September 2018.

Local Law (Repealing) Local Law (No. 1) 2018

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1 Short title

This local law may be cited as *Local Law (Repealing) Local Law (No. 1) 2018*.

2 Commencement

This local law commences on the date notice of the making of the local law is published in the gazette.

3 Local law repealed

This local law repeals *Local Law No. 2 (Meetings) 2008*.

4 Expiration

This local law expires on the day after notice of the making of the local law is published in the gazette.