

## CM13. OFFICERS REPORTS FOR CONSIDERATION

### CM13.1. Draft Code of Meeting Practice

<b>DATE</b>	28 March 2019	<b>FIL REFERENCE</b>	FIL10/00524
<b>CONFIDENTIAL</b>	No		
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#### Purpose of Report

To present the revised draft AlburyCity Code of Meeting Practice (CoMP) to Council for consideration for endorsement. Once endorsed, the draft CoMP will be placed on public exhibition prior to final adoption.

#### Background

Amendments made to the Local Government Act 1993 (LGA) in August 2016 by the Local Government Amendment (Governance and Planning) Act 2016 (the Phase 1 amendments) provide for a model code of meeting practice (Model Meeting Code) to be prescribed by the Regulation.

Following an extensive consultation process by the Office of Local Government (OLG), a Model Meeting Code was prescribed under the Local Government (General) Regulation 2005 (the Regulation) on 14 December 2018. This also resulted in the existing meeting provisions of the Regulation being repealed.

Previously there was not a uniform set of meeting rules for councils beyond the general provisions prescribed under the LGA and the Regulation. In developing the Model Meeting Code, the OLG identified significant variations in meeting practices and rules across councils. The OLG's review of councils' codes of meeting practice noted the following:

- While there are a number of areas of commonality between councils in meeting practice there were significant differences in how these were applied in their codes of meeting practice;
- A number of councils' codes of meeting practice contain provisions that are inconsistent with the LGA and the Regulation;
- There is significant variation in the quality of the drafting of councils' codes of meeting practice; and
- A number of councils' codes of meeting practice appeared to lose sight of the fact that the primary purpose of meetings is to make decisions and their code documents contained practices that are not consistent with the efficient conduct of meetings or effective and informed decision-making.

Under the legislation, all Councils are required to adopt a new code of meeting practice within six months from the date on which the new Model Meeting Code was prescribed (14 December 2018).

If a council fails to adopt a new code of meeting practice within this period, under transitional provisions contained in the Regulation and the LGA, any provision of the council's adopted code that is inconsistent with a mandatory provision of the Model Meeting Code prescribed under the Regulation will automatically cease to have any effect to the extent that it is inconsistent with the mandatory provision of the Model Meeting Code.

Irrespective of whether councils have adopted a code of meeting practice based on the Model Meeting Code, all councils (but not joint organisations) will be required to webcast meetings of the council from 14 December 2019. The webcasting requirement may be met simply by posting an audio or video recording of the meeting on the council's website.

The LGA (s.361) still requires that before adopting a code of meeting practice, Council must:

- Prepare a draft code and place it on public exhibition for not less than 28 days; and
- Allow a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to Council.

## Issues

The Model Meeting Code has two elements that have been reflected in the draft CoMP:

1. It contains mandatory provisions (indicated in **black** font) that reflect the existing meeting provisions of the LGA and update and enhance the meeting provisions previously prescribed under the Regulation to reflect contemporary meeting practice by councils.
2. It contains non-mandatory provisions (indicated in **red** font) that cover areas of meeting practice that are common to most councils but where there may be a need for some variation in practice between councils based on local circumstances. The non-mandatory provisions also operate to set a benchmark based on what OLG sees as being best practice for the relevant area of practice.

The Model Meeting Code also applies to meetings of the boards of joint organisations and county councils. The provisions that are specific to meetings of boards of joint organisations are indicated in **blue** font.

The Model Meeting Code allows for supplementary provisions that are local to individual councils to be included in their adopted CoMP. These supplementary provisions must not be inconsistent with the mandatory provisions. The draft CoMP has incorporated supplementary provisions including more detail on AlburyCity's approach to webcasting the meetings of council, as well as provisions regarding community forums (indicated in **green** font).

Where items exist in the draft CoMP that relate specifically to joint organisations or are part of the non-mandatory provisions, thereby allowing some modification, the items proposed for removal from the document have been shown in strikethrough.

The changes proposed by the Model Meeting Code are not significant when compared with AlburyCity's existing Code of Meeting Practice for Councillors, Staff and Delegates. In many cases, the same or similar wording is used throughout the newly developed document compared with our existing document. The layout of the Model Meeting Code's layout is more user friendly in that it considers each aspect of the meeting cycle in order of occurrence such as 'before the meeting', 'coming together', and 'after the meeting'.

The following are some of the variances contained in the draft CoMP compared with AlburyCity's existing Code of Meeting Practice for Councillors, Staff and Delegates:

- New meeting principles included at the beginning of the document;
- Councillor Workshops have been referred to as 'pre-meeting briefing sessions' in the Model Meeting Code and therefore the draft CoMP. This provision allows for consistency across councils in NSW and while is not mandatory, it is recommended that the terminology recommended by the OLG is maintained;
- New rules limiting the use of mayoral minutes without notice to cases of urgency;
- Clauses 10.10 – 10.19 removes the ability for motions and proposed amendments to be debated concurrently. The original motion must be suspended while the amendment is debated and determined (carried/lost). Whilst AlburyCity's current CoMP allows for concurrent debate, our current practice reflects the Model Meeting Code. Greater clarity is also provided on foreshadowed motions and amendments (these are mandatory provisions);
- Clauses under part 14 provide more extensive guidance around the circumstances for closing meetings to the public. Members of the public can also now make representations to council in advance of the meeting on why the meeting should not be closed to the public;
- Provisions regarding pecuniary interests have now been removed from the Model Meeting Code and replaced with clause 16 referencing conflicts of interest. More extensive requirements associated with pecuniary interest are included in the new Model Code of Conduct which is recommended by the OLG to be adopted by councils by 14 June 2019;
- Notice requirements to the public and councillors for the upcoming meeting has reduced from five days before the meeting to at least three days before the meeting (this is a mandatory provision); In this regard, our current timeframes will exceed the new provision;
- Supplementary provisions clarifying that councillors may also defer an item of business on the agenda should matters be raised in a public forum that require further consideration;
- Supplementary provisions around the use of mobile phones in meetings for on-call/emergency situations only, upon approval by the Mayor, in order to ensure respect for other councillors and meeting participants;
- Supplementary provisions have been included to reflect AlburyCity's approach to webcasting and recording of meetings of council, committees of council and audio recording of public forums and community forums; and
- Supplementary provisions have been included for community forums that are reflective of the requirements set out for other meetings including public forums. This has been included to provide guidance on how the community forum will be administered and to set standards for the conduct of attendees at the community forum.

The OLG have provided guidance to councils on the changed requirements for the Code of Meeting Practice including a frequently asked questions publication. These are attached for further information under attachments 2 and 3.

The draft CoMP has been prepared in line with the new brand requirements.

### **Risk**

- Business Risk - the revision of the draft CoMP is required to ensure compliance with all current provisions of the LGA and Regulations and further to encourage better practice and good governance principles.

### **Community Engagement**

Due to the public exhibition requirements of the LGA, it is recommended that the draft CoMP be placed on public exhibition commencing on 12 April 2019 for a period of 28 days, with public comment available until 24 May 2019. This will ensure that any submissions are considered, and the draft CoMP is considered for adoption in the recommended timeframe suggested by the OLG (by 14 June 2019).

Should no submissions be received, it is recommended that the endorsed draft CoMP be adopted without the need for a further report to be considered by Council.

### **Options**

Council have the following options:

1. Endorse the draft CoMP as presented. Once endorsed the document be placed on public exhibition for 28 days and if no submissions are received, that the draft CoMP be adopted and placed on the Public Policy and Procedure Register; or
2. Endorse the draft CoMP with any recommended changes to be made prior to public exhibition. Once endorsed the document be placed on public exhibition for 28 days and if no submissions are received, that the draft CoMP be adopted and placed on the Public Policy and Procedure Register.

### **Conclusion**

The Code of Meeting Practice requires review to ensure compliance with the new Model Code of Meeting Practice for Local Councils requirements. The Local Government Act 1993 requires that before adopting a Code of Meeting Practice, Council must prepare a draft Code and place it on public exhibition for not less than 28 days and allow a period of not less than 42 days for submissions. After considering all submissions Council may adopt the draft Code of Meeting Practice. The OLG recommends final adoption of a Code of Meeting Practice before 14 June 2019.

**Recommendation**

That Council:

- a. Endorse the draft Code of Meeting Practice as presented to Council on 8 April 2019;
- b. Place the draft Code of Meeting Practice on public exhibition for a period of 28 days and
- c. If no submissions are received, that the draft Code of Meeting Practice be adopted as at 13 June 2019 and placed on the Public Policy and Procedure Register.

**Attachments**

1. Draft Code of Meeting Practice (DOC15/105594[v6]).
2. Council Circular 18-35 new Model Code of Meeting Practice for Local Councils (DOC18/171018).
3. Council Circular 18-35 new Model Code of Meeting Practice for Local Councils Attachment – Frequently Asked Questions (DOC19/40278).

# Code of Meeting Practice



Based on the Office of Local Government's Model Code of Meeting Practice for Local Councils in NSW (2018)

Prepared by  
Public Information  
Officer

Adopted by Council  
xx June 2019

**Table of Contents**

- 1. INTRODUCTION..... 5
- 2. MEETING PRINCIPLES..... 5
- 3. BEFORE THE MEETING..... 6
  - Timing of ordinary council meetings..... 6
  - Extraordinary meetings ..... 7
  - Notice to the public of council meetings ..... 7
  - Notice to councillors of ordinary council meetings..... 7
  - Notice to councillors of extraordinary meetings ..... 7
  - Giving notice of business to be considered at council meetings..... 8
  - Questions with notice ..... 8
  - Agenda and business papers for ordinary meetings..... 9
  - Availability of the agenda and business papers to the public ..... 10
  - Agenda and business papers for extraordinary meetings ..... 10
  - Pre-meeting briefing sessions ..... 11
- 4. PUBLIC FORUMS..... 12
- 5. COMING TOGETHER..... 14
  - Attendance by councillors at meetings..... 14
  - The quorum for a meeting..... 15
  - Entitlement of the public to attend council meetings ..... 16
  - Webcasting of meetings..... 17
  - Attendance of the general manager and other staff at meetings ..... 18
- 6. THE CHAIRPERSON ..... 19
  - Election of the chairperson in the absence of the mayor and deputy mayor ..... 19
  - Chairperson to have precedence ..... 20
- 7. MODES OF ADDRESS..... 20
- 8. ORDER OF BUSINESS FOR ORDINARY COUNCIL MEETINGS ..... 20
- 9. CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS ..... 21
  - Business that can be dealt with at a council meeting..... 21
  - Mayoral minutes ..... 22
  - Staff reports ..... 23

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 2 of 52
---------------------------------	----	--------------------------	------------------	--------------

Reports of committees of council .....	23
Questions .....	23
10. RULES OF DEBATE.....	24
Motions to be seconded.....	24
Notices of motion .....	24
Chairperson’s duties with respect to motions .....	24
Motions requiring the expenditure of funds.....	25
Amendments to motions.....	25
Foreshadowed motions.....	25
Limitations on the number and duration of speeches .....	26
Participation by non-voting representatives in joint organisation board meetings.....	27
11. VOTING .....	27
Voting entitlements of councillors.....	27
Voting at council meetings.....	28
Voting on planning decisions.....	29
12. COMMITTEE OF THE WHOLE .....	29
13. DEALING WITH ITEMS BY EXCEPTION .....	30
14. CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC.....	30
Grounds on which meetings can be closed to the public .....	30
Matters to be considered when closing meetings to the public.....	31
Notice of likelihood of closure not required in urgent cases .....	32
Representations by members of the public .....	32
Expulsion of non-councillors from meetings closed to the public .....	34
Information to be disclosed in resolutions closing meetings to the public.....	34
Resolutions passed at closed meetings to be made public .....	34
15. KEEPING ORDER AT MEETINGS.....	35
Points of order .....	35
Questions of order .....	35
Motions of dissent.....	35
Acts of disorder.....	36
How disorder at a meeting may be dealt with .....	36
Expulsion from meetings .....	36
Use of mobile phones and the unauthorised recording of meetings .....	37
16. CONFLICTS OF INTEREST.....	38

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 3 of 52
---------------------------------	----	--------------------------	------------------	--------------

17. DECISIONS OF COUNCIL .....	38
Council decisions.....	38
Rescinding or altering council decisions.....	38
Recommitting resolutions to correct an error.....	40
18. TIME LIMITS ON COUNCIL MEETINGS .....	40
19. AFTER THE MEETING .....	41
Minutes of meetings.....	41
Access to correspondence and reports laid on the table at, or submitted to, a meeting .....	42
Implementation of decisions of the council.....	43
20. COUNCIL COMMITTEES.....	43
Application of this Part.....	43
Council committees whose members are all councillors .....	43
Functions of committees .....	43
Notice of committee meetings .....	43
Attendance at committee meetings.....	44
Non-members entitled to attend committee meetings.....	44
Chairperson and deputy chairperson of council committees.....	44
Procedure in committee meetings .....	45
Closure of committee meetings to the public.....	45
Disorder in committee meetings .....	45
Minutes of council committee meetings .....	46
21. COMMUNITY FORUMS .....	46
22. IRREGULARITIES .....	49
23. DEFINITIONS .....	50
24. AUTHORISATION .....	52

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 4 of 52
---------------------------------	----	--------------------------	------------------	--------------

## 1. Introduction

This Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is made under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

This code applies to all meetings of councils and committees of councils of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code.

A council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, a code of meeting practice adopted by a council must not contain provisions that are inconsistent with the mandatory provisions of this Model Meeting Code.

The provisions of the Model Meeting Code that are not mandatory are indicated in **red font**. **Supplementary provisions incorporated by Albury City Council that are not mandatory are indicated in green font.**

A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by the council.

The Model Meeting Code also applies to meetings of the boards of joint organisations and county councils. The provisions that are specific to meetings of boards of joint organisations are indicated in **blue font**.

In adopting the Model Meeting Code, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

In adopting the Model Meeting Code, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

## 2. Meeting Principles

2.1 Council and committee meetings should be:

Transparent: Decisions are made in a way that is open and accountable.

Informed: Decisions are made based on relevant, quality information.

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Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 5 of 52
---------------------------------	----	--------------------------	------------------	--------------

- Inclusive: Decisions respect the diverse needs and interests of the local community.
- Principled: Decisions are informed by the principles prescribed under Chapter 3 of the Act.
- Trusted: The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.
- Respectful: Councillors, staff and meeting attendees treat each other with respect.
- Effective: Meetings are well organised, effectively run and skilfully chaired.
- Orderly: Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

### **3. Before the Meeting**

#### **Timing of ordinary council meetings**

- 3.1 Ordinary meetings of the council will be held on the following occasions: ~~{council to specify the frequency, time, date and place of its ordinary meetings}~~
- (a) Council will meet at least two times per month (excluding January). Additional meetings will be convened as required,
  - (b) Council will ordinarily meet on the 2<sup>nd</sup> and 4<sup>th</sup> Monday of the month,
  - (c) Meetings of the Council are generally held in the Albury City Council Chambers, 553 Kiewa Street, Albury, commencing at 6.00pm, unless preceded by any public forum held in accordance with clause 4.
- 3.2 ~~The council shall, by resolution, set the frequency, time, date and place of its ordinary meetings.~~ [Omitted]

Note: Councils must use either clause 3.1 or 3.2

Note: Under section 365 of the Act, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A.

Note: Under section 396 of the Act, county councils are required to meet at least four (4) times each year.

Note: Under section 400T of the Act, boards of joint organisations are required to meet at least four (4) times each year, each in a different quarter of the year.

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Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 6 of 52
---------------------------------	----	--------------------------	------------------	--------------

### Extraordinary meetings

- 3.3 If the mayor receives a request in writing, signed by at least two (2) councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The mayor can be one of the two councillors requesting the meeting.

Note: Clause 3.3 reflects section 366 of the Act.

### Notice to the public of council meetings

- 3.4 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council.

Note: Clause 3.4 reflects section 9(1) of the Act.

- 3.5 For the purposes of clause 3.4, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.

- 3.6 For the purposes of clause 3.4, notice of more than one (1) meeting may be given in the same notice.

### Notice to councillors of ordinary council meetings

- 3.7 The general manager must send to each councillor, at least three (3) days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

Note: Clause 3.7 reflects section 367(1) of the Act.

- 3.8 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

Note: Clause 3.8 reflects section 367(3) of the Act.

### Notice to councillors of extraordinary meetings

- 3.9 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

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Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 7 of 52
---------------------------------	----	--------------------------	------------------	--------------

Note: Clause 3.9 reflects section 367(2) of the Act.

### Giving notice of business to be considered at council meetings

- 3.10 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted ~~[council to specify notice period required]~~ **by 12.00 noon, the Monday prior to the scheduled meeting, normally five and a half** business days before the meeting is to be held.
- 3.11 A councillor may, in writing to the general manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.
- 3.12 ~~If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.~~
- 3.13 ~~A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the general manager must either:~~
- ~~(a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or~~
  - ~~(b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.~~

### Questions with notice

- 3.14 A councillor may, by way of a notice submitted under clause 3.10, ask a question for response by the general manager about the performance or operations of the council.
- 3.15 A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.

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Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 8 of 52
---------------------------------	----	--------------------------	------------------	--------------

- 3.16 The general manager or their nominee may respond to a question with notice submitted under clause 3.14 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

**Agenda and business papers for ordinary meetings**

- 3.17 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 3.18 The general manager must ensure that the agenda for an ordinary meeting of the council states:
- (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
  - (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
  - (d) any business of which due notice has been given under clause 3.10.
- 3.19 Nothing in clause 3.18 limits the powers of the mayor to put a mayoral minute to a meeting under clause 9.6.
- 3.20 The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
- 3.21 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public, the general manager must ensure that the agenda of the meeting:
- (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
  - (b) states the grounds under section 10A(2) of the Act relevant to the item of business.

Note: Clause 3.21 reflects section 9(2A)(a) of the Act.

- 3.22 The general manager must ensure that the details of any item of business which, in the opinion of the general manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 9 of 52
---------------------------------	----	--------------------------	------------------	--------------

concerned. Such details must not be included in the business papers made available to the public, and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

### **Availability of the agenda and business papers to the public**

- 3.23 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council.

Note: Clause 3.23 reflects section 9(2) and (4) of the Act.

- 3.24 Clause 3.23 does not apply to the business papers for items of business that the general manager has identified under clause 3.21 as being likely to be considered when the meeting is closed to the public.

Note: Clause 3.24 reflects section 9(2A)(b) of the Act.

- 3.25 For the purposes of clause 3.23, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors.

Note: Clause 3.25 reflects section 9(3) of the Act.

- 3.26 A copy of an agenda, or of an associated business paper made available under clause 3.23, may in addition be given or made available in electronic form.

Note: Clause 3.26 reflects section 9(5) of the Act.

### **Agenda and business papers for extraordinary meetings**

- 3.27 The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.

- 3.28 Despite clause 3.27, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:

- (a) a motion is passed to have the business considered at the meeting, and
- (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 10 of 52
---------------------------------	----	--------------------------	------------------	---------------

- 3.29 A motion moved under clause 3.28(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.
- 3.30 Despite clauses 10.20–10.30, only the mover of a motion moved under clause 3.28(a) can speak to the motion before it is put.
- 3.31 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.28(b) on whether a matter is of great urgency.

### **Pre-meeting briefing sessions**

- 3.32 ~~Prior to each ordinary meeting of the council, the general manager~~ The mayor may ~~arrange~~ call a pre-meeting briefing session to brief councillors on business to be considered at the meeting and any other items of importance. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council. There is no obligation on councillors to attend pre-meeting briefing sessions.

Pre-meeting briefing sessions will be held:

- (a) on the third Monday of each month (as scheduled) and on other Mondays where required, or
- (b) when requested by two or more Councillors.

Pre-meeting briefing sessions will have an agenda. The general manager will consult with the mayor or councillors who have called for the pre-meeting briefing session as to the items to be included on the agenda.

- 3.33 ~~Pre-meeting briefing sessions are to be held in the absence of the public~~ are to be open to the public except for items that meet the requirements of section 10A of the Act.
- 3.34 ~~The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.~~ The mayor or acting mayor will chair the pre-meeting briefing session and in their absence the councillors will elect a councillor to chair the pre-meeting briefing session.
- 3.36 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.
- 3.37 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or

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Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 11 of 52
---------------------------------	----	--------------------------	------------------	---------------

committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.

## **4. Public Forums**

- 4.1 The council may hold a public forum prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council.
- 4.2 Public forums are to be chaired by the mayor or their nominee.
- 4.3 To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by ~~[date and time to be specified by the council]~~ **12.00 noon on the day** before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.
- 4.4 A person may apply to speak on no more than ~~[number to be specified by the council]~~ **one (1)** item of business on the agenda of the council meeting.
- 4.5 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.
- 4.6 The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 4.7 No more than ~~[number to be specified by the council]~~ **five (5)** speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the council meeting.
- 4.8 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to address the council on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the general manager or their delegate is to determine who will address the council at the public forum.
- 4.9 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may, in consultation with the mayor or

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 12 of 52
---------------------------------	----	--------------------------	------------------	---------------

- the mayor's nominated chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.
- 4.10 Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs **at least 24 hours** ~~no more than [number to be specified by the council]~~ days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.
- 4.11 The general manager or their delegate is to determine the order of speakers at the public forum.
- 4.12 Each speaker will be allowed ~~[number to be specified by the council]~~ **five (5)** minutes to address the council. This time is to be strictly enforced by the chairperson.
- 4.13 Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.
- 4.14 A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.
- 4.15 Speakers are under no obligation to answer a question put under clause 4.14. Answers by the speaker, to each question are to be limited to ~~[number to be specified by the council]~~ **two (2)** minutes.
- 4.16 Speakers at public forums cannot ask questions of the council, councillors or council staff.
- 4.17 The general manager or their nominee may, with the concurrence of the chairperson, address the council for up to ~~[number to be specified by the council]~~ **three (3)** minutes in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.
- 4.18 Where an address made at a public forum raises matters that require further consideration by council staff, the **item may be deferred by councillors at the meeting or upon the recommendation of the general manager** ~~may recommend that the council defer consideration of the matter~~ pending the preparation of a further report on the matters.
- 4.19 When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 13 of 52
---------------------------------	----	--------------------------	------------------	---------------

engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.

- 4.20 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.19, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.
- 4.21 Clause 4.20 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.
- 4.22 Where a speaker engages in conduct of the type referred to in clause 4.19, the general manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the general manager or their delegate considers appropriate.
- 4.23 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.

*Note: Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council. Where a public forum is held as part of a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of council and committee meetings.*

## **5. Coming Together**

### **Attendance by councillors at meetings**

- 5.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.

*Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.*

- 5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 14 of 52
---------------------------------	----	--------------------------	------------------	---------------

- 5.3 ~~The board of the joint organisation may, if it thinks fit, transact any of its business at a meeting at which representatives (or some representatives) participate by telephone or other electronic means, but only if any representative who speaks on a matter before the meeting can be heard by the other representatives. For the purposes of a meeting held in accordance with this clause, the chairperson and each other voting representative on the board have the same voting rights as they have at an ordinary meeting of the board.~~  
[Omitted]

Note: Clause 5.3 reflects clause 397G of the Regulation. Joint organisations may adopt clause 5.3 and omit clause 5.2. Councils must not adopt clause 5.3.

- 5.4 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.
- 5.5 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.
- 5.6 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 5.7 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

Note: Clause 5.7 reflects section 234(1)(d) of the Act.

- 5.8 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the general manager at least two (2) days' notice of their intention to attend.

### **The quorum for a meeting**

- 5.9 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.

Note: Clause 5.9 reflects section 368(1) of the Act.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 15 of 52
---------------------------------	----	--------------------------	------------------	---------------

# AlburyCity

## Code of Meeting Practice

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5.10 Clause 5.9 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

Note: Clause 5.10 reflects section 368(2) of the Act.

5.11 A meeting of the council must be adjourned if a quorum is not present:

- (a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
- (b) within half an hour after the time designated for the holding of the meeting, or
- (c) at any time during the meeting.

5.12 In either case, the meeting must be adjourned to a time, date and place fixed:

- (a) by the chairperson, or
- (b) in the chairperson's absence, by the majority of the councillors present, or
- (c) failing that, by the general manager.

5.13 The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

5.14 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the safety and welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster (such as, but not limited to flood or bushfire), the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.

5.15 Where a meeting is cancelled under clause 5.14, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.3.

### Entitlement of the public to attend council meetings

5.16 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public.

Note: Clause 5.16 reflects section 10(1) of the Act.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 16 of 52
---------------------------------	----	--------------------------	------------------	---------------

- 5.17 Clause 5.16 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.
- 5.18 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:
- (a) by a resolution of the meeting, or
  - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

Note: Clause 5.18 reflects section 10(2) of the Act.

**Note: If adopted, clauses 15.14 and 15.15 confer a standing authorisation on all chairpersons of meetings of the council and committees of the council to expel persons from meetings. If adopted, clause 15.14 authorises chairpersons to expel any person, including a councillor, from a council or committee meeting. Alternatively, if adopted, clause 15.15 authorises chairpersons to expel persons other than councillors from a council or committee meeting.**

### Webcasting of meetings

- 5.19 All meetings of the council and committees of the council are to be webcast on the council's website. **The following supplementary provisions also apply:**
- (a) all meetings of council and committee meetings held at the Albury City Council Chambers, 553 Kiewa St, Albury are recorded and webcast (live-streamed),
  - (b) webcasts of meetings will be kept and made available for later viewing on the council's website,
  - (c) where council resolves to hold a meeting of council or committee of council at an alternative venue to the Albury City Council Chambers, the meeting will be audio recorded as a minimum and made available on council's website on the next business day following the meeting,
  - (d) all agendas for meetings of the council and committees of council will list in the agenda that the meeting is being recorded and webcast,
  - (e) the chairperson will advise those present that the meeting is being recorded and webcast,
  - (f) appropriate signage will be displayed at the entrance to the Albury City Council Chambers,
  - (g) council accepts no liability for any defamatory or offensive statements. All meeting attendees are required to abide by the standards of conduct outlined in this Code,
  - (h) webcasts are protected by copyright and owned by Albury City Council. No part may be copied or recorded or made available to others without the prior written permission of the general manager,

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 17 of 52
---------------------------------	----	--------------------------	------------------	---------------

- (i) the webcast is not, and shall not, be taken to be an official record of Albury City Council or of any meeting or discussion depicted therein. Only the official minutes may be relied upon as an official record of the meeting,
- (j) council will audio record all meetings of council, committees of council, public forums and community forums for administrative purposes in ensuring the accurate preparation of minutes or transcripts,
- (k) all agendas for meetings of the council, committees of council, public forums and community forums will list in the agenda that the meeting is being audio recorded for administrative purposes,
- (l) the chairperson will advise those present that the meeting is being audio recorded for administrative purposes and appropriate signage will be displayed,
- (m) audio recordings of meetings of the council, committees of council, public forums and community forums will not be released without the express written permission of the general manager,
- (n) all aspects of the recording and webcasting of the meetings of council, committees of council, public forums and community forums are contained in the Recording and Webcasting of Public Meetings and Forums Procedure.

Note: Councils will be required to webcast meetings from 14 December 2019. Councils that do not currently webcast meetings should take steps to ensure that meetings are webcast by 14 December 2019.

Note: Councils must include supplementary provisions in their adopted codes of meeting practice that specify whether meetings are to be livestreamed or recordings of meetings uploaded on the council's website at a later time. The supplementary provisions must also specify whether the webcast is to comprise of an audio visual recording of the meeting or an audio recording of the meeting.

~~Note: Joint organisations are not required to webcast meetings but may choose to do so by adopting clauses 5.19–5.22. Joint organisations that choose not to webcast meetings may omit clauses 5.19–5.22.~~

- 5.20 Clause 5.19 does not apply to parts of a meeting that have been closed to the public under section 10A of the Act.
- 5.21 At the start of each meeting the chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.
- 5.22 A recording of each meeting of the council and committee of the council is to be retained on the council's website for ~~[council to specify the period of time the recording is to be retained on the website]~~ **12 months**. Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

### **Attendance of the general manager and other staff at meetings**

- 5.23 The general manager is entitled to attend, but not to vote at, a meeting of the council or a

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 18 of 52
---------------------------------	----	--------------------------	------------------	---------------

meeting of a committee of the council of which all of the members are councillors.

Note: Clause 5.23 reflects section 376(1) of the Act.

- 5.24 The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.

Note: Clause 5.24 reflects section 376(2) of the Act.

- 5.25 The general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of employment of the general manager.

Note: Clause 5.25 reflects section 376(3) of the Act.

- 5.26 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the general manager.

## **6. The Chairperson**

- 6.1 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.

Note: Clause 6.1 reflects section 369(1) of the Act.

- 6.2 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.

Note: Clause 6.2 reflects section 369(2) of the Act.

### **Election of the chairperson in the absence of the mayor and deputy mayor**

- 6.3 If no chairperson is present at a meeting of the 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.

- 6.4 The election of a chairperson must be conducted:

- (a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or
- (b) by the person who called the meeting or a person acting on their behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 19 of 52
---------------------------------	----	--------------------------	------------------	---------------

- 6.5 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.
- 6.6 For the purposes of clause 6.5, 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.
- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

#### **Chairperson to have precedence**

- 6.9 When the chairperson rises or speaks during a meeting of the council:
- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
  - (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

## **7. Modes of Address**

- 7.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.
- 7.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.
- 7.3 A councillor is to be addressed as 'Councillor [surname]'.
- 7.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].

## **8. Order of Business for Ordinary Council Meetings**

- 8.1 ~~At a meeting of the council, the general order of business is as fixed by resolution of the council.~~ [Omitted]
- 8.2 The general order of business for an ordinary meeting of the council shall be: ~~councils may adapt the following order of business to meet their needs~~

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 20 of 52
---------------------------------	----	--------------------------	------------------	---------------

- 01 ~~Opening meeting~~ Opening Prayer and Acknowledgement of Country
- 02 ~~Acknowledgement of country~~ Webcasting and Audio Recording Advice
- 03 ~~Apologies and applications for a leave of absence by councillors~~ Disclosure of Interests (including Conflict of Interest)
- 04 ~~Confirmation of minutes~~ Apologies
- 05 ~~Disclosures of interests~~ Mayoral Minute
- 06 ~~Mayoral minute(s)~~ Action Plan(s) including:
  - (a) actions complete – for noting only
  - (b) actions awaiting response from external parties
  - (c) actions in progress
  - (d) long term issues (greater than three (3) months)
- 07 ~~Reports of committees~~ Confirmation of Minutes of Previous Council Meeting(s)
- 08 ~~Reports to council~~ Reports from Community Forums
- 09 ~~Notices of motions/Questions with notice~~ Notices of Motion / Rescission
- 10 ~~Confidential matters~~ Presentations and Deputations
- 11 ~~Conclusion of the meeting~~ Reports / Minutes of Committees and Working Parties
- 12 Documents for Sealing
- 13 Officers Reports for Consideration
- 14 Officers Reports for Noting
- 15 Delegates Reports for Noting
- 16 Notice of Urgent Business
- 17 Confidential Matters

Note: Councils must use either clause 8.1 or 8.2.

- 8.3 The order of business as fixed under clause ~~[8.1/8.2]~~ **[delete whichever is not applicable]** 8.2 may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

**Note: If adopted, Part 13 allows council to deal with items of business by exception.**

- 8.4 Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 8.3 may speak to the motion before it is put.

## **9. Consideration of Business at Council Meetings**

### **Business that can be dealt with at a council meeting**

- 9.1 The council must not consider business at a meeting of the council:
- (a) unless a councillor has given notice of the business, as required by clause 3.10, and
  - (b) unless notice of the business has been sent to the councillors in accordance with

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 21 of 52
---------------------------------	----	--------------------------	------------------	---------------

clause 3.7 in the case of an ordinary meeting or clause 3.9 in the case of an extraordinary meeting called in an emergency.

9.2 Clause 9.1 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) subject to clause 9.9, is a matter or topic put to the meeting by way of a mayoral minute, or
- (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.

9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:

- (a) a motion is passed to have the business considered at the meeting, and
- (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.

9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

### **Mayoral minutes**

9.6 Subject to clause 9.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.

9.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.

9.8 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.

9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 22 of 52
---------------------------------	----	--------------------------	------------------	---------------

For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.

- 9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.

### **Staff reports**

- 9.11 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

### **Reports of committees of council**

- 9.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.
- 9.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

### **Questions**

- 9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.10 and 3.14.
- 9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.
- 9.16 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the general manager at the direction of the general manager.
- 9.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.
- 9.18 Councillors must put questions directly, succinctly, respectfully and without argument.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 23 of 52
---------------------------------	----	--------------------------	------------------	---------------

- 9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

## **10. Rules of Debate**

### **Motions to be seconded**

- 10.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

### **Notices of motion**

- 10.2 A councillor who has submitted a notice of motion under clause 3.10 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.10 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:
- (a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
  - (b) the chairperson may defer consideration of the motion until the next meeting of the council.

### **Chairperson's duties with respect to motions**

- 10.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 10.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.
- 10.7 Before ruling out of order a motion or an amendment to a motion under clause 10.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.
- 10.8 Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been lost.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 24 of 52
---------------------------------	----	--------------------------	------------------	---------------

**Motions requiring the expenditure of funds**

10.9 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the motion if adopted.

**Amendments to motions**

- 10.10 An amendment to a motion must be moved and seconded before it can be debated.
- 10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 10.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.
- 10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

**Foreshadowed motions**

10.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 25 of 52
---------------------------------	----	--------------------------	------------------	---------------

- 10.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.
- 10.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

**Limitations on the number and duration of speeches**

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 10.21 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.
- 10.22 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.
- 10.23 Despite clause 10.22, 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.
- 10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.
- 10.25 Despite clauses 10.20 and 10.21, 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 two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.
- 10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 26 of 52
---------------------------------	----	--------------------------	------------------	---------------

- 10.27 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 their right of reply under clause 10.20.
- 10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.
- 10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

### **Participation by non-voting representatives in joint organisation board meetings**

- 10.31 ~~Non-voting representatives of joint organisation boards may speak on but must not move, second or vote on any motion or an amendment to a motion. [Omitted]~~

~~Note: Under section 400T(1)(c) of the Act, non-voting representatives of joint organisation boards may attend but are not entitled to vote at a meeting of the board.~~

~~Note: Joint organisations must adopt clause 10.31. Councils must not adopt clause 10.31.~~

## **11. Voting**

### **Voting entitlements of councillors**

- 11.1 Each councillor is entitled to one (1) vote.

Note: Clause 11.1 reflects section 370(1) of the Act.

~~Note: Under section 400T(1) of the Act, voting representatives of joint organisation boards are entitled to one (1) vote each at meetings of the board.~~

- 11.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.

Note: Clause 11.2 reflects section 370(2) of the Act.

- 11.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 27 of 52
---------------------------------	----	--------------------------	------------------	---------------

- 11.4 ~~A motion at a meeting of the board of a joint organisation is taken to be lost in the event of an equality of votes. [Omitted]~~

Note: Clause 11.4 reflects clause 397E of the Regulation. Joint organisations must adopt clause 11.4 and omit clauses 11.2 and 11.3. Councils must not adopt clause 11.4.

~~Note: Under section 400U(4) of the Act, joint organisations may specify more stringent voting requirements for decisions by the board such as a 75% majority or consensus decision making. Where a joint organisation's charter specifies more stringent voting requirements, clause 11.4 must be adapted to reflect those requirements.~~

### **Voting at council meetings**

- 11.5 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- 11.6 If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.
- 11.7 The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.
- 11.8 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the council's minutes for the meeting.
- 11.9 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.5 of this code.
- 11.10 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.
- 11.11 ~~All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded. [Omitted]~~

Note: If clause 11.11 is adopted, clauses 11.6 - 11.9 and clause 11.13 may be omitted.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 28 of 52
---------------------------------	----	--------------------------	------------------	---------------

### **Voting on planning decisions**

- 11.12 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- 11.13 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- 11.14 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.
- 11.15 Clauses 11.12–11.14 apply also to meetings that are closed to the public.

Note: Clauses 11.12–11.15 reflect section 375A of the Act.

Note: The requirements of clause 11.12 may be satisfied by maintaining a register of the minutes of each planning decision.

## **12. Committee of the Whole**

- 12.1 The council may resolve itself into a committee to consider any matter before the council.
- Note: Clause 12.1 reflects section 373 of the Act.
- 12.2 All the provisions of this code relating to meetings of the council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provisions limiting the number and duration of speeches.
- Note: Clauses 10.20–10.30 limit the number and duration of speeches.
- 12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- 12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 29 of 52
---------------------------------	----	--------------------------	------------------	---------------

## **13. Dealing with Items by Exception**

- 13.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.
- 13.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.
- 13.3 The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.
- 13.4 Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.3.
- 13.5 A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.
- 13.6 Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.
- 13.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.

## **14. Closure of Council Meetings to the Public**

### **Grounds on which meetings can be closed to the public**

- 14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:
- (a) personnel matters concerning particular individuals (other than councillors),
  - (b) the personal hardship of any resident or ratepayer,
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 30 of 52
---------------------------------	----	--------------------------	------------------	---------------

- (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law,
- (f) matters affecting the security of the council, councillors, council staff or council property,
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
- (i) alleged contraventions of the council's code of conduct.

Note: Clause 14.1 reflects section 10A(1) and (2) of the Act.

- 14.2 The council or a committee of the council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

Note: Clause 14.2 reflects section 10A(3) of the Act.

#### **Matters to be considered when closing meetings to the public**

- 14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:

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

Note: Clause 14.3 reflects section 10B(1) of the Act.

- 14.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 14.1(g) unless the advice concerns legal matters that:

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

Note: Clause 14.4 reflects section 10B(2) of the Act.

- 14.5 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 14.2), the consideration of the motion must

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 31 of 52
---------------------------------	----	--------------------------	------------------	---------------

not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 14.1.

Note: Clause 14.5 reflects section 10B(3) of the Act.

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

- (a) a person may misinterpret or misunderstand the discussion, or
- (b) the discussion of the matter may:
  - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
  - (ii) cause a loss of confidence in the council or committee.

Note: Clause 14.6 reflects section 10B(4) of the Act.

14.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the Chief Executive of the Office of Local Government.

Note: Clause 14.7 reflects section 10B(5) of the Act.

#### **Notice of likelihood of closure not required in urgent cases**

14.8 Part of a meeting of the council, or of a committee of the council, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed, but only if:

- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 14.1, and
- (b) the council or committee, after considering any representations made under clause 14.9, resolves that further discussion of the matter:
  - (i) should not be deferred (because of the urgency of the matter), and
  - (ii) should take place in a part of the meeting that is closed to the public.

Note: Clause 14.8 reflects section 10C of the Act.

#### **Representations by members of the public**

14.9 The council, or a committee of the council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 32 of 52
---------------------------------	----	--------------------------	------------------	---------------

Note: Clause 14.9 reflects section 10A(4) of the Act.

- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by ~~[date and time to be specified by the council]~~ **12.00 noon, one (1) business day** before the meeting at which the matter is to be considered.
- 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.13 No more than ~~[number to be specified by the council]~~ **three (3)** speakers are to be permitted to make representations under clause 14.9.
- 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.
- 14.15 The general manager (or their delegate) is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than ~~[number to be specified by the council]~~ **three (3)** speakers to make representations in such order as determined by the chairperson.
- 14.17 Each speaker will be allowed ~~[number to be specified by the council]~~ **five (5)** minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 33 of 52
---------------------------------	----	--------------------------	------------------	---------------

**Expulsion of non-councillors from meetings closed to the public**

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

**Information to be disclosed in resolutions closing meetings to the public**

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

Note: Clause 14.20 reflects section 10D of the Act.

**Resolutions passed at closed meetings to be made public**

- 14.21 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.
- 14.22 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the chairperson under clause 14.21 during a part of the meeting that is webcast.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 34 of 52
---------------------------------	----	--------------------------	------------------	---------------

## **15. Keeping Order at Meetings**

### **Points of order**

- 15.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.
- 15.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.
- 15.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

### **Questions of order**

- 15.4 The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- 15.5 A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- 15.6 The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- 15.7 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

### **Motions of dissent**

- 15.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 15.9 If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 15.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 35 of 52
---------------------------------	----	--------------------------	------------------	---------------

### Acts of disorder

- 15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:
- (a) contravenes the Act or any regulation in force under the Act or this code, or
  - (b) assaults or threatens to assault another councillor or person present at the meeting, or
  - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or
  - (d) insults or makes personal reflections on or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
  - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.
- 15.12 The chairperson may require a councillor:
- (a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a) or (b), or
  - (b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or
  - (c) to retract and apologise without reservation for an act of disorder referred to in clauses 15.11(d) and (e).

### How disorder at a meeting may be dealt with

- 15.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

### Expulsion from meetings

- 15.14 ~~All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person, including any councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. [Omitted]~~
- 15.15 ~~All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled~~

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 36 of 52
---------------------------------	----	--------------------------	------------------	---------------

by resolution of the council or the committee of the council.

Note: Councils may use either clause 15.14 or clause 15.15.

- 15.16 Clause ~~[15.14/15.15]~~ ~~[delete whichever is not applicable]~~ 15.15 does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.
- 15.17 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.
- 15.18 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.
- 15.19 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.
- 15.20 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

#### **Use of mobile phones and the unauthorised recording of meetings**

- 15.21 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council. **In the interests of ensuring respect for other councillors and meeting participants, councillors must not use their mobile phone during meetings except for external work (on-call) and emergency situations with approval of the Mayor.**
- 15.22 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.
- 15.23 Any person who contravenes or attempts to contravene clause 15.22, may be expelled from the meeting as provided for under section 10(2) of the Act.
- 15.24 If any such person, after being notified of a resolution or direction expelling them from the

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 37 of 52
---------------------------------	----	--------------------------	------------------	---------------

meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

## **16. Conflicts of Interest**

- 16.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council and committees of the council in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made.

## **17. Decisions of Council**

### **Council decisions**

- 17.1 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.

Note: Clause 17.1 reflects section 371 of the Act in the case of councils and section 400T(8) in the case of joint organisations.

~~Note: Under section 400U(4) of the Act, joint organisations may specify more stringent voting requirements for decisions by the board such as a 75% majority or consensus decision making. Where a joint organisation's charter specifies more stringent voting requirements, clause 17.1 must be adapted to reflect those requirements.~~

- 17.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

### **Rescinding or altering council decisions**

- 17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.10.

Note: Clause 17.3 reflects section 372(1) of the Act.

- 17.4 If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 38 of 52
---------------------------------	----	--------------------------	------------------	---------------

Note: Clause 17.4 reflects section 372(2) of the Act.

- 17.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.10.

Note: Clause 17.5 reflects section 372(3) of the Act.

- 17.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

Note: Clause 17.6 reflects section 372(4) of the Act.

- 17.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

Note: Clause 17.7 reflects section 372(5) of the Act.

- 17.8 The provisions of clauses 17.5–17.7 concerning lost motions do not apply to motions of adjournment.

Note: Clause 17.8 reflects section 372(7) of the Act.

- 17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.11 with the consent of all signatories to the notice of motion.

- 17.10 A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than ~~[council to specify the period of time]~~ **5.00 pm the next working day** after the meeting at which the resolution was adopted.

- 17.11 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.

Note: Clause 17.11 reflects section 372(6) of the Act.

- 17.12 Subject to clause 17.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 39 of 52
---------------------------------	----	--------------------------	------------------	---------------

- (a) a notice of motion signed by three councillors is submitted to the chairperson, and
- (b) a motion to have the motion considered at the meeting is passed, and
- (c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

17.13 A motion moved under clause 17.12(b) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.12(b) can speak to the motion before it is put.

17.14 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.12(c).

#### **Recommitting resolutions to correct an error**

17.15 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:

- (a) to correct any error, ambiguity or imprecision in the council's resolution, or
- (b) to confirm the voting on the resolution.

17.16 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.15(a), the councillor is to propose alternative wording for the resolution.

17.17 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.

17.18 A motion moved under clause 17.15 can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.

17.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.

17.20 A motion moved under clause 17.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

## **18. Time Limits on Council Meetings**

18.1 Meetings of the council and committees of the council are to conclude no later than ~~[council to specify the time]~~ **11.00pm**.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 40 of 52
---------------------------------	----	--------------------------	------------------	---------------

- 18.2 If the business of the meeting is unfinished at ~~[council to specify the time]~~ 11.00pm, the council or the committee may, by resolution, extend the time of the meeting (in 15 minute periods).
- 18.3 If the business of the meeting is unfinished at ~~[council to specify the time]~~ 11.00pm, and the council does not resolve to extend the meeting, the chairperson must either:
- (a) defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the council, or
  - (b) adjourn the meeting to a time, date and place fixed by the chairperson.
- 18.4 Clause 18.3 does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.
- 18.5 Where a meeting is adjourned under clause 18.3 or 18.4, the general manager must:
- (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
  - (b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the general manager is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

## **19. After the Meeting**

### **Minutes of meetings**

- 19.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.

Note: Clause 19.1 reflects section 375(1) of the Act.

- 19.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:
- (a) details of each motion moved at a council meeting and of any amendments moved to it,
  - (b) the names of the mover and seconder of the motion or amendment,
  - (c) whether the motion or amendment was passed or lost, and
  - (d) such other matters specifically required under this code.
- 19.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 41 of 52
---------------------------------	----	--------------------------	------------------	---------------

Note: Clause 19.3 reflects section 375(2) of the Act.

19.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

19.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.

Note: Clause 19.5 reflects section 375(2) of the Act.

19.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

19.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

#### **Access to correspondence and reports laid on the table at, or submitted to, a meeting**

19.8 The council and committees of the 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.

Note: Clause 19.8 reflects section 11(1) of the Act.

19.9 Clause 19.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

Note: Clause 19.9 reflects section 11(2) of the Act.

19.10 Clause 19.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

Note: Clause 19.10 reflects section 11(3) of the Act.

19.11 Correspondence or reports to which clauses 19.9 and 19.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 42 of 52
---------------------------------	----	--------------------------	------------------	---------------

### **Implementation of decisions of the council**

19.12 The general manager is to implement, without undue delay, lawful decisions of the council.

Note: Clause 19.12 reflects section 335(b) of the Act.

## **20. Council Committees**

### **Application of this Part**

20.1 This Part only applies to committees of the council whose members are all councillors.

### **Council committees whose members are all councillors**

20.2 The council may, by resolution, establish such committees as it considers necessary.

20.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.

20.4 The quorum for a meeting of a committee of the council is to be:

- (a) such number of members as the council decides, or
- (b) if the council has not decided a number – a majority of the members of the committee.

### **Functions of committees**

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

### **Notice of committee meetings**

20.6 The general manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:

- (a) the time, date and place of the meeting, and
- (b) the business proposed to be considered at the meeting.

20.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 43 of 52
---------------------------------	----	--------------------------	------------------	---------------

**Attendance at committee meetings**

- 20.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:
- (a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
  - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- 20.9 Clause 20.8 does not apply if all of the members of the council are members of the committee.

**Non-members entitled to attend committee meetings**

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

**Chairperson and deputy chairperson of council committees**

- 20.11 The chairperson of each committee of the council must be:
- (a) the mayor, or
  - (b) if the mayor does not wish to be the chairperson of a committee, a member of the committee elected by the council, or
  - (c) if the council does not elect such a member, a member of the committee elected by the committee.
- 20.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
- 20.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
- 20.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 44 of 52
---------------------------------	----	--------------------------	------------------	---------------

to preside, the acting chairperson is to preside at the meeting.

### **Procedure in committee meetings**

20.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.

20.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 20.15.

20.17 ~~A motion at a committee of a joint organisation is taken to be lost in the event of an equality of votes.~~ [Omitted]

*Note: Clause 20.17 reflects clause 397E of the Regulation. Joint organisations must adopt clause 20.17 and omit clause 20.16. Councils must not adopt clause 20.17.*

20.18 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

### **Closure of committee meetings to the public**

20.19 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.

20.20 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.

20.21 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 20.20 during a part of the meeting that is webcast.

### **Disorder in committee meetings**

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

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 45 of 52
---------------------------------	----	--------------------------	------------------	---------------

### **Minutes of council committee meetings**

20.23 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:

- (a) details of each motion moved at a meeting and of any amendments moved to it,
- (b) the names of the mover and seconder of the motion or amendment,
- (c) whether the motion or amendment was passed or lost, and
- (d) such other matters specifically required under this code.

~~20.24 All voting at meetings of committees of the council (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded. [Omitted]~~

20.25 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.

20.26 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

20.27 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.

20.28 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

20.29 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

## **21. Community Forums**

21.1 The general manager, in consultation with the mayor, may arrange a community forum to provide the community with an opportunity to address councillors on items of significant community interest. Community forums will be held:

- (a) on an as needs basis with advance notice being provided to councillors advising of the upcoming community forum. Community forums will normally be held on the 1<sup>st</sup> Monday of the month (where required and scheduled);
- (b) community forums are generally held in the Albury City Council Chambers, 553

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 46 of 52
---------------------------------	----	--------------------------	------------------	---------------

# AlburyCity

## Code of Meeting Practice

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Kiewa St, Albury, commencing at 6.00pm, unless an alternative location is deemed by the council to be more suitable in the circumstances.

- 21.2 Members of the public who have been identified by council staff as having a significant interest in the matter to be discussed at the community forum will be notified in writing at least **10 days** in advance of the proposed community forum. Interested parties will be invited to present at the community forum.
- 21.3 The council will give notice to the public of the time, date and place of each community forum. Notice is to be published at least **seven (7) days** in advance of the community forum. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the community forum to the attention of as many people as possible. More than one (1) community forum may be given in the same notice.
- 21.4 The general manager must send to each councillor, at least **three (3) days** before each community forum, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be discussed at the community forum.
- 21.5 To speak at a community forum, a person must first make an application to the council in the approved form. Applications to speak at the community forum must be received by **12.00 noon on the Wednesday** before the date on which the community forum is to be held, and must identify the item of business on the agenda of the community forum the person wishes to speak on, and whether they wish to speak 'for' or 'against' an item.
- 21.6 Approved speakers at the community forum are to register with the council any written, visual or audio material to be presented in support of their address to the community forum, and to identify any equipment needs by **12.00 noon on the Wednesday** before the public forum. The general manager or their delegate may refuse to allow such material to be presented.
- 21.7 A person may apply to speak on no more than **one** item of business on the agenda of the community forum.
- 21.8 Legal representatives acting on behalf of others are not to be permitted to speak at a community forum unless they identify their status as a legal representative when applying to speak at the community forum.
- 21.9 The chairperson may refuse an application to speak at a public forum. The chairperson must give reasons in writing for a decision to refuse an application.
- 21.10 All community forums will have an agenda.
- 21.11 Attendance at a community forum is open to all members of the public, councillors and members of staff.
- 21.12 Community forums are to be chaired by the mayor or their nominee.
- 21.13 The chairperson, at their discretion, may invite members of the public to register their interest to speak at the community forum at the commencement of the community forum.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 47 of 52
---------------------------------	----	--------------------------	------------------	---------------

- 21.14 No more than **five (5)** speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the community forum.
- 21.15 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the chairperson may request the speakers to nominate from among themselves the persons who are to address the community forum on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the chairperson is to determine who will address the council at the community forum.
- 21.16 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the chairperson may increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the community forum to hear a fuller range of views on the relevant item of business.
- 21.17 Each speaker will be allowed **five (5)** minutes to address the community forum. This time is to be monitored and enforced by the chairperson.
- 21.18 Speakers at community forums must not digress from the item on the agenda of the community forum. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.
- 21.19 A councillor may, through the chairperson, ask questions of a speaker following their address at a community forum. Questions put to a speaker must be direct, succinct and without argument.
- 21.20 Speakers are under no obligation to answer a question put under clause 21.19. Answers by the speaker, to each question are to be limited to **two (2)** minutes.
- 21.21 Separate to any presentation, the chairperson may invite questions from councillors in attendance at the community forum.
- 21.22 Where an address made at a community forum raises matters that require further consideration by council staff, the chairperson may recommend that a further report on the matters raised be prepared for council's or a committee of council's consideration.
- 21.23 When addressing the attendees, speakers at community forums must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- 21.24 If the chairperson considers that a speaker at a community forum has engaged in conduct of the type referred to in clause 21.18, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 48 of 52
---------------------------------	----	--------------------------	------------------	---------------

- 21.25 Clause 21.23 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at community forums in accordance with the provisions of Part 15 of this code.
- 21.26 Where a speaker engages in conduct of the type referred to in clause 21.23, the general manager or their delegate may refuse further applications from that person to speak at community forums for such a period as the general manager or their delegate considers appropriate.
- 21.27 Councillors must not use community forums to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.
- 21.28 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a community forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at community forums and how the conflict of interest was managed by the councillor who made the declaration.

## **22. Irregularities**

- 22.1 Proceedings at a meeting of a council or a council committee are not invalidated because of:
- (a) a vacancy in a civic office, or
  - (b) a failure to give notice of the meeting to any councillor or committee member, or
  - (c) any defect in the election or appointment of a councillor or committee member, or
  - (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
  - (e) a failure to comply with this code.

Note: Clause 21.1 reflects section 374 of the Act.

**This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.**

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 49 of 52
---------------------------------	----	--------------------------	------------------	---------------

## 23. Definitions

the Act	means the Local Government Act 1993
act of disorder	means an act of disorder as defined in clause 15.11 of this code
amendment	in relation to an original motion, means a motion moving an amendment to that motion
audio recorder	any device capable of recording speech
business day	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
chairperson	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 20.11 of this code
this code	means the council’s adopted code of meeting practice
committee of the council	means a committee established by the council in accordance with clause 20.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1
community forum	means a forum held where significant public interest has been identified on a particular matter by councillors or council staff. The aim is to give members of the public, both proponents and opponents, a means by which they may address councillors and raise issues that are important to them in relation to the matter – these considerations are normally taken into account in advance of any decision being made and may require further investigation before a report is presented to council at a future meeting for council’s consideration
council official	has the same meaning it has in the Model Code of Conduct for Local Councils in NSW
day	means calendar day
division	means a request by two councillors under clause 11.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion
foreshadowed amendment	means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a councillor under

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# AlburyCity

## Code of Meeting Practice

	clause 10.17 of this code during debate on an original motion
open voting	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
planning decision	means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979 including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act
performance improvement order	means an order issued under section 438A of the Act
public forum	means a forum for members of the public to speak to a matter, both for or against, that is shown on the agenda of the upcoming meeting. Public forums are held immediately before the commencement of the meeting and representations are limited to items that appear on the agenda for that particular meeting.
quorum	means the minimum number of councillors or committee members necessary to conduct a meeting
the Regulation	means the Local Government (General) Regulation 2005
webcast	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time
year	means the period beginning 1 July and ending the following 30 June

This document is uncontrolled once printed. Refer to the AlburyCity website/intranet for current version.

Effective Date: 12 June 2019	V6	Code of Meeting Practice	DOC15/105594[v6]	Page 51 of 52
---------------------------------	----	--------------------------	------------------	---------------

## 24. Authorisation

<b>Owner</b>	<b>Directorate</b>	Executive – Human Resources Group
	<b>Responsible Officer</b>	Public Information Officer
<b>Authorisation</b>	Adopted Council 12 June 2019	
<b>Review Date</b>	September 2020 (Reviewed within the first 12 months of a new Council, or as required)	
<b>Register</b>	Public Policy and Procedure Register.	
<b>Record of Amendments</b>	21 Dec 2009	New procedure. Adopted Council following public exhibition.
	28 Oct 2013	Review. Adopted Council following public exhibition.
	23 Nov 2015	Review not adopted. Previous version publicly exhibited and adopted.
	6 Feb 2017	Resolution of Council to amend wording (24 Oct 2016 CM10.1). Resolution of Council to amend wording (12 Dec 2016 CM10.1). Amended to reflect resolutions. Adopted by Council.
	22 May 2017	Resolution of Council to amend agenda timelines (27 Feb 2017 CM10.1). Amended to reflect resolution. Placed on Public Exhibition and adopted by Council.
	28 May 2018	Resolution by Council to disband Committees of Council (26 Mar 2018 CM10.3). Amended to reflect resolution. Placed on Public Exhibition and adopted by Council
	13 August 2018	Resolution by Council to include a Public Forum (28 May 2018 CM10.1). Amended to reflect resolution. Placed on Public Exhibition and adopted by Council
	12 June 2019	Code of Meeting Practice required to include mandatory provisions of Model prescribed by the OLG and should be adopted by 14 June 2019.

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<b>Circular Details</b>	Circular No 18-45 / 18 December 2018 / A621294
<b>Previous Circular</b>	18-35 <i>The new Model Code of Meeting Practice for Local Councils</i>
<b>Who should read this</b>	Mayors / Councillors / General Managers / Joint Organisation Executive Officers / Council governance staff
<b>Contact</b>	Council Governance Team – (02) 4428 4100 / <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a>
<b>Action required</b>	Council to Implement

## Commencement of the new Model Code of Meeting Practice for Local Councils in NSW

### What's new or changing

- Amendments made to the *Local Government Act 1993* (LGA) in August 2016 by the *Local Government Amendment (Governance and Planning) Act 2016* (the Phase 1 amendments) provide for a model code of meeting practice (Model Meeting Code) to be prescribed by the Regulation.
- Following an extensive consultation process, a Model Meeting Code has been prescribed under the *Local Government (General) Regulation 2005* (the Regulation) and the existing meetings provisions of the Regulation have been repealed. The new Model Meeting Code is available on OLG's website.
- The Model Meeting Code has two elements:
  - It contains mandatory provisions (**indicated in black font**) that reflect the existing meetings provisions of the Act and update and enhance the meetings provisions previously prescribed under the Regulation to reflect contemporary meetings practice by councils.
  - It contains non-mandatory provisions (**indicated in red font**) that cover areas of meetings practice that are common to most councils but where there may be a need for some variation in practice between councils based on local circumstances. The non-mandatory provisions also operate to set a benchmark based on what OLG sees as being best practice for the relevant area of practice.
- The Model Meeting Code also applies to meetings of the boards of joint organisations and county councils. The provisions that are specific to meetings of boards of joint organisations are **indicated in blue font**. References to councils below also include references to joint organisations and county council unless otherwise specified.

### What this will mean for your council

- Councils are required to adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code prescribed by the Regulation. A council's adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions.
- A council's adopted meeting code may also incorporate the non-mandatory provisions of the Model Meeting Code and any other supplementary provisions adopted by the council.
- Councils and committees of councils of which all the members are councillors must conduct their meetings in accordance with the code of meeting practice adopted by the council.

## Key points

- Under the transitional provisions of the LGA, councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code no later than 12 months after the next ordinary elections.
- Until a council adopts a new code of meeting practice, its existing code of meeting practice will remain in force up until six months from the date on which the new Model Meeting Code was prescribed, (**14 December 2018 – 14 June 2019**). If a council fails to adopt a new code of meeting practice within this period, under transitional provisions contained in the Regulation and the LGA, any provision of the council's adopted meeting code that is inconsistent with a mandatory provision of the Model Meeting Code prescribed under the Regulation will automatically cease to have any effect to the extent that it is inconsistent with the mandatory provision of the Model Meeting Code.
- Irrespective of whether councils have adopted a code of meeting practice based on the Model Meeting Code, all councils (but not joint organisations) will be required to webcast meetings of the council and committees of which all members are councillors from **14 December 2019**. The webcasting requirement may be met simply by posting an audio or video recording of the meeting on the council's website.
- Before adopting a new code of meeting practice, under section 361 of the LGA, councils are still required to exhibit a draft of the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the draft code. This requirement does not apply to joint organisations.
- In adopting the Model Meeting Code, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".
- In adopting the Model Meeting Code, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

## Where to go for further information

- Further information is provided in the FAQ attached to this circular.
- The new Model Meeting Code is available on OLG's website at [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au).
- OLG will be providing further guidance and assistance to councils to support implementation of the new Model Meeting Code during the six month transitional timeframe.
- For more information, contact the Council Governance Team by telephone on 02 4428 4100 or by email at [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au).



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## FREQUENTLY ASKED QUESTIONS

### **How is the Model Meeting Code prescribed?**

Amendments made to section 360 of the LGA by the Phase 1 amendments provide as follows:

- The regulations may prescribe a model code of meeting practice for the conduct of meetings of councils and committees of councils of which all the members are councillors.
- The model meeting code may contain both mandatory and non-mandatory provisions.
- A council must, not later than 12 months after an ordinary election of councillors, adopt a code of meeting practice that incorporates the mandatory provisions of the model meeting code prescribed by the regulations. The adopted code may also incorporate the non-mandatory provisions and other provisions.
- A code adopted or amended by a council must not contain provisions that are inconsistent with the mandatory provisions.
- A council and a committee of a council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by it.

Councils continue to be required to consult with their communities prior to adopting a code of meeting practice (see section 361).

### **What is the status of the meetings provisions of the Regulation?**

These have now been repealed and the prescription of meeting rules will now be done through the Model Code of Meeting Practice that is prescribed under the Regulation from time to time.

### **Why has a Model Meeting Code been prescribed?**

Previously there was not a uniform set of meeting rules for councils beyond those prescribed under the LGA and the Regulation. In developing the Model Meeting Code, OLG identified significant variability in meeting practices and rules across councils. OLG's review of councils' codes of meeting practice noted the following:

- while there are a number of areas of commonality between councils in meetings practice there is significant variability in how this is prescribed in their codes of meeting practice
- a number of councils' codes of meeting practice contain provisions that are inconsistent with the LGA and the Regulation
- there is significant variation in the quality of the drafting of councils' codes of meeting practice
- a number of councils' codes of meeting practice appear to lose sight of the fact that the primary purpose of meetings is to make decisions and contained practices that are not consistent with the efficient conduct of meetings or effective and informed decision-making.

### **What outcomes does the new Model Meeting Code seek to achieve?**

The Model Meeting Code has been designed to achieve a range of outcomes, including:

- promoting, as the principal object of meetings, the making of decisions by the governing bodies of councils that are in the best interests of the council and the community as a whole

- promoting more accessible, orderly, effective and efficient meetings and to provide councils with the tools to achieve these outcomes
- prescribing principles to inform the way in which meetings are conducted and to prescribe meeting rules that are consistent with these principles
- codifying areas of common practice across councils in a way that is clear, efficient, leads to better informed and more effective decision making and that is consistent with the requirements of the LGA
- promoting greater consistency between councils across the State in key areas of meetings practice without losing the ability to allow some variation in practice to meet local needs or expectations
- allowing greater flexibility in the conduct of meetings to accommodate a range of potential scenarios that were not addressed by the previous prescribed meeting rules
- simplifying the language used to make the prescribed meeting rules more accessible and easier to understand
- modernising the rules to accommodate current and emerging technologies (e.g. electronic notice, electronic voting systems and webcasting).

### **How was the Model Meeting Code developed?**

OLG has consulted extensively in developing the new Model Meeting Code. There have been two rounds of public consultation:

- in late 2016, OLG invited submissions on how the meeting rules prescribed by the Regulation could be improved and any additional areas of meeting practice that should be prescribed
- based on the feedback received from the first round of consultation, a consultation draft of the proposed new Model Meeting Code was developed and issued for comment.

The final version of the Model Meeting Code has been informed by the comment received in response to the consultation draft.

### **What are the key changes made by the Model Meeting Code?**

The Model Meeting Code contains the following new elements:

- new meetings principles
- optional rules for pre-meeting councillor briefings
- optional rules for public forums
- a new requirement for meetings to be webcast
- new rules limiting the use of mayoral minutes without notice to cases of urgency
- optional rules requiring a staff report for motions seeking decisions that do not align with councils' integrated planning and reporting (IP&R) objectives
- optional rules allowing multiple items to be adopted in a block
- optional rules allowing rescission motions to be dealt with at the same meeting in cases of urgency and allowing matters to be recommitted to correct an error
- optional rules placing time limits on meetings.

### **Are councils required to adopt the non-mandatory provisions of the Model Meeting Code?**

No. The non-mandatory provisions are indicated in **red font** in the Model Meeting Code. The non-mandatory provisions cover areas of practice that are common to most councils but where there may be a need for some variation in practice between

councils. These are designed to set a benchmark for what OLG considers to be best practice for these areas of practice.

While councils may incorporate these into their adopted codes of meeting practice, they are not required to do so. Councils may also adopt these in an amended form.

### **Are joint organisations and county councils required to adopt codes of meeting practice based on the mandatory provisions of the Model Meeting Code?**

Yes. There are some provisions of the Model Meeting Code that are specific to meetings of boards of joint organisations and reflect the unique needs and operating environment of joint organisations. These are indicated in **blue font**. In adopting the Model Meeting Code, joint organisations should also adapt it to substitute the terms “board” for “council”, “chairperson” for “mayor”, “voting representative” for “councillor” and “executive officer” for “general manager”.

In adopting the Model Meeting Code, county councils should adapt it to substitute the term “chairperson” for “mayor” and “member” for “councillor”.

### **When must councils adopt a new code of meeting practice based on the Model Meeting Code?**

Under the transitional provisions of the LGA, councils **must**, adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code no later than 12 months after the next ordinary elections. However, for the reasons set out below, councils **should** adopt a new code of meeting practice based on the Model Meeting Code as soon as possible.

Until a council adopts a new code of meeting practice, its existing code of meeting practice will remain in force up until six months from the date on which the new Model Meeting Code was prescribed, (**14 December 2018 – 14 June 2019**). If a council fails to adopt a new code of meeting practice within this period, under transitional provisions contained in the Regulation and the LGA, any provision of the council’s adopted code that is inconsistent with a mandatory provision of the Model Meeting Code prescribed under the Regulation will automatically cease to have any effect to the extent that it is inconsistent with the mandatory provision of the Model Meeting Code.

Irrespective of whether councils have adopted a code of meeting practice based on the Model Meeting Code, all councils (but not joint organisations) will be required to webcast meetings of the council and committees of which all members are councillors from **14 December 2019**. The webcasting requirement may be met simply by posting an audio or video recording of the meeting on the council’s website.

### **Do councils still need to consult with their communities when adopting a new code of meeting practice based on the Model Meeting Code?**

Yes. Before adopting a new code of meeting practice, under section 361 of the LGA, councils are still required to exhibit a draft of the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the draft code. This requirement does not apply to joint organisations.

## **Are councils required to adopt the provisions of the Model Meeting Code relating to public forums?**

No. These have not been made mandatory in recognition of the fact that there will be a need for some variation in practice to suit local needs. Councils are able to adopt them, adapt or supplement them to meet local need, or to adopt their own provisions governing public forums. However, OLG would strongly recommend that councils make provision in their codes of meeting practice for some form of public access or input into council decision making.

The provisions governing public forums contained in the Model Meeting Code reflect what OLG sees to be best practice and have been informed by the following considerations:

- Councils should have a comprehensive community engagement strategy in place to ensure that the views of affected persons and (where relevant) the community as a whole are considered in council decision making. This will soon be a statutory requirement. Public forums at council meetings are not an appropriate substitute for effective community consultation and councils need to be mindful that the views expressed at public forums will not necessarily be representative of the views of other affected parties or the broader community.
- Public forums should operate as an input into council decision-making at meetings. This means that they should be focussed on the matters under consideration at a council meeting and not permit free ranging discussion of other matters that are not being dealt with at the meeting.
- In the interests of ensuring informed decision making, there should be a gap between the public forum and the meeting to allow councillors the time to properly consider matters raised at the public forum and, if necessary, to seek further input and guidance from staff before being required to make a decision on those matters.
- Council meetings should operate as a forum for debate and decision making by the community's elected representatives. Public forums should not operate in a way that displaces this as the principal purpose of council meetings nor operate as a platform for others to participate in debate with elected officials on matters under consideration at a meeting.
- Participation in a public forum is a privilege not a right. It should be within the discretion of a council to withdraw this privilege where a person fails to respect meeting rules or engages in disorderly conduct.

## **Why has the webcasting of meetings been made mandatory?**

The Model Meeting Code provides that all meetings of councils and committees whose membership comprises only of councillors should be webcast to increase the transparency of council decision making and to allow access to those who may not be physically able to attend meetings.

However, following concerns raised by councils in response to the consultation draft of the Model Meeting Code, councils have been provided with an extended transitional period in which to implement the new requirements

Irrespective of whether they have adopted a code of meeting practice based on the Model Meeting Code, all councils will be required to webcast meetings of the council and committees whose membership comprises only of councillors from **14 December 2019**.

This gives councils 12 months in which to make the necessary arrangements to webcast their meetings. The requirement to webcast meetings may be met simply by posting an audio or video recording of the meeting on the council's website meaning that all councils, irrespective of their size, resources and location will be able to comply.

Joint organisations are not required to webcast board meetings.

**Where can I get a Word© version of the Model Meeting Code?**

If you require a Word© version of the Model Meeting Code, please contact OLG's Council Governance Team.