

 NORTHERN AREAS COUNCIL	FLINDERS MOBILE LIBRARY MANAGEMENT COMMITTEE TERMS OF REFERENCE	Version No:	1.02
		Last Reviewed:	25 March 2021
		To be Reviewed	As Required

Responsible Officer	Manager Community Development
First Issued / Adopted	15 May 2012
Review Period	Annual
Last Reviewed	25 March 2021
Next review Date	As required
Applicable legislation	Local Government Act 1999: <ul style="list-style-type: none"> • Chapter 4 – Part 1 – Division 2 ‘Committees’ • Chapter 5 – All Parts • Chapter 6 – Parts 2, 3, 4, 5 & 7 Local Government (Procedures at Meetings) Regulations 2000
Date Implemented	1 July 2012

1. BACKGROUND

Section 41 of the Local Government Act 1999 provides that:

- (1) A council may establish committees.
- (2) A committee may, according to a determination of the council (and subject to the operation of this Act), be established—
 - (a) to assist the council in the performance of its functions;
 - (b) to inquire into and report to the council on matters within the ambit of the council's responsibilities;
 - (c) to provide advice to the council;
 - (d) to exercise, perform or discharge delegated powers, functions or duties.
- (3) The membership of a committee will be determined by the council and may consist of, or include, persons who are not members of the council.
- (4) The council must appoint a person as the presiding member of a committee, or make provision for the appointment of a presiding member.
- (5) A member of a committee holds office at the pleasure of the council.

1. BACKGROUND (Cont'd)

- (6) The council may appoint the principal member of the council as an ex officio member of a committee (but in such a case the principal member will not be taken to be included in the membership of the committee unless actually present at a meeting of the committee).
- (7) A committee may establish a subcommittee to assist it in a matter.
- (8) A council must, when establishing a committee, determine the reporting and other accountability requirements that are to apply in relation to the committee.
- (9) A committee that is performing a regulatory activity of the council must report to the council on its activities at least quarterly.
- (10) The establishment of a committee does not derogate from the power of the council to act in a matter.
- (11) No act or proceeding of a council committee is invalid by reason of—
 - (a) a vacancy or vacancies in the membership of the committee; or
 - (b) a defect in the election or appointment of a member or members of the committee; or
 - (c) the fact that the election of a member or members of the committee is subsequently declared void by a court of competent jurisdiction.
- (12) No civil liability attaches to a member of a committee for an honest act or omission in the exercise, performance or discharge, or purported exercise, performance or discharge, of the member's or committee's powers, functions or duties.
- (13) A liability that would, but for subsection (12), attach to a member of a committee attaches instead to the council.

2. PREAMBLE

The Flinders Mobile Library Management Committee (“the Committee”) is a regional alliance of representatives of the Northern Areas Council (“the Council”), the District Council of Mount Remarkable and the Port Pirie Regional Council (collectively, “the Councils”).

The Committee is a Committee of the Council established pursuant to the provisions of Section 41 of the Local Government Act 1999 as amended (“the Act”) as an Advisory Committee on Library Services throughout the serviced areas within the areas covered by the Councils (“the Region”).

The Committee has been established for the purpose of assisting the Councils to address the Library needs of people within the Region via the Flinders Mobile Library (“the Library”).

3. POLICY POSITION

That pursuant to the provisions of Section 41 of the Local Government Act 1999 that Council establish a Committee to be known as the Flinders Mobile Library Management Committee for the following purposes:

- The provision of a public mobile library service for the areas of the Councils; and
- to exercise, perform and discharge the delegated powers, functions and duties conferred upon it by the Council as detailed in these Terms of Reference.

4. FUNCTIONS OF THE COMMITTEE

The specific functions of the Committee are to:

- Ensure that the Library observes all plans, targets, structures, systems and practices required or applied to the Library by the Councils;
- Ensure that all information furnished to the Councils is accurate;
- Monitor the performance of the Library and report to the Councils;
- Monitor the Library needs of people in the Region;
- Regularly review the operations of the Library and make recommendations on the development of the Library where appropriate;
- Provide an avenue for the community to have input into the development of Library services in the Region; and
- Advise the Councils, as soon as practicable, of any material development that affects the financial or operating capacity of the Library or gives rise to the expectation that the Library may not be able to meet its debts as and when they fall due.

5. MEMBERSHIP

5.1 General

Membership of the Committee will consist of:

- Two (2) nominees of the Council;
- Two (2) nominees of the District Council of Mount Remarkable; and
- Two (2) nominees of the Port Pirie Regional Council.

Preferably one member from each of the Councils should be a member of the Council appointing him or her.

All members hold office at the pleasure of the nominating Council and ultimately, at the pleasure of the Council.

Each organisation entitled to nominate a member to the Committee shall also be entitled to have a deputy nominee attend in the absence of one of its nominees, who will be entitled to act in the full capacity of the nominee. Such

5. MEMBERSHIP (Cont'd)

5.1 General (Cont'd)

deputy nominees are able to attend meetings of the Committee at which the respective nominees are also in attendance however the deputy nominee shall only have observer status in such situations.

Such deputy nominees shall advise the Chairperson prior to any meetings that they are attending in the absence and full capacity of the respective nominee.

Current Members and the deputy nominees are detailed in Schedule 1 to this Policy Document.

5.2 Members Obligations

Members must at all times act with reasonable care and diligence in the performance and discharge of official duties.

A member of the Committee must not, whether within or outside the State, make improper use of his or her position as a member of the Committee to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Library or the Committee.

Other than an appointed media spokesperson, members of the Committee will not provide comment on Library or Committee business to either the public or media.

Members are required to attend a minimum of two (2) meetings annually.

5.3 Term of Appointment

The Term of Appointment for members of the Committee is a term expiring at the conclusion of the next general election of the Council held after his or her appointment as a member of the Committee.

5.4 Conflict of Interest

In accordance with the provisions of Section 75 of the Act, the Conflict of Interest and Disclosure of Interest requirements contained within Sections 73 and 74 of the Act apply to all members of the Committee.

5.5 Resignation

A member may resign from membership of the Committee by giving written notice thereof to the Chairperson of the Committee.

The Chairperson of the Committee shall give notice of such resignation to the Presiding Members of the Councils.

5.6 Vacancy

A member of the Committee who ceases to be a member / employee / nominee of the body appointing him / her shall also cease to be a member of the Committee.

Any vacancy in the membership of the Committee is to be filled as soon as practicable by the respective body who appointed the member who has ceased to be a member of the Committee.

No act or proceeding of the Committee is invalid by reason of a vacancy or vacancies in the membership of the Committee.

5.7 Roles and Responsibilities of Members

The role of a Committee member is to:

- Participate in the deliberations of the Committee, with regard to the policy and business which is before it;
- Be mindful of the objectives and policies of the Councils as they relate to the business of the Library and the Committee;
- Be aware of Library and Committee resources, budgets and strategic plans, and the need for efficiency and effectiveness in the activities for which the Committee has been established;
- Be informed on issues before the Committee, to prepare adequately for meetings and to seek additional information if required;
- Be mindful of the potential for a “Conflict of Interest” to occur through participation on the Committee and to declare such Interests as and when they arise;
- Represent the nominating sector, body or organisation honestly and fairly; and
- Observe confidentiality as and when required.

6.0 CHAIRPERSON

6.1 Election & Term of Appointment

The Committee Members at the first meeting following each Local Government periodic election, shall, by secret ballot, elect from amongst their own members, a Chairperson to this Committee who shall hold office at the pleasure of the Council.

6.2 Role of the Chairperson

The Chairperson of the Committee shall:

1. Call all meetings of the Committee;
2. Preside at all meetings of the Committee at which he/she is present and preserve order thereat so that the business may be conducted in due form and with propriety;

6.0 CHAIRPERSON (Cont'd)

6.2 Role of the Chairperson (Cont'd)

3. Upon confirmation of the minutes, sign them in the presence of the meeting at the foot of the last page and initial each page as a true, accurate and correct record of the proceedings of that meeting; and
4. Be a media spokesperson for the Library and the Committee.

In the event of the Chairperson being absent from a meeting, the members present shall appoint a member who shall preside over that meeting or until the Chairperson is present.

7. ADMINISTRATIVE ARRANGEMENTS

The Chief Executive Officer (or his / her delegated Officer(s)) of the Council shall:

1. perform secretariate duties;
2. act as Treasurer; and
3. act as a media spokesperson for the Library and the Committee.

7.1 Secretariate Duties

The duties of the Secretariate shall include:

1. The preparation and distribution of Notices of Meetings and Agendas;
2. Providing Notices of Meetings, Agendas, Financial Reports and related documents to Councils in order to ensure compliance with Section 88 of the Act (reference to public display of Notices of Meetings and Agendas etc);
3. Ensuring that items on Agendas are described with reasonable particularity and accuracy and are accompanied by copies of reports and other documents to be discussed at a meeting;
4. Ensuring the timely distribution of Minutes to members of the Committee and to the Councils following receipt from the Minute Secretary;
5. Ensuring that Minutes are available for public display within 5 days of a meeting;
6. Reporting on a quarterly basis to the Committee;
7. Dealing with all correspondence as instructed by the Committee;
8. Dealing with all business referred to him / her by the Chairperson;
9. Keeping of such records as instructed by the Committee from time to time; and
10. Carrying out such duties as the Committee may from time to time assign.

7. ADMINISTRATIVE ARRANGEMENTS (Cont'd)

7.2 Treasurer Duties

The Council shall provide to each member of the Committee:

1. Quarterly financial reports relating to funds held on behalf of the Councils and others for purposes relating to the activities of the Library; and
2. An annual financial statement for the Library detailing funds held on behalf of the Councils and others, including a Statement of Comprehensive Income, a Statement of Financial Position and a Statement of Cash Flows.

7.3 Minute Secretary & Minutes

Pursuant to the provisions of Section 91 of the Act, the Chief Executive Officer of the Council shall ensure that Minutes of the Committee Meetings are kept.

Minutes of the proceedings of all meetings of the Committee shall be forwarded to the members of the Committee and each of the Councils within five (5) days after a meeting.

The Minutes of the proceedings of meetings of the Committee shall:

1. record the names of members present at the meeting;
2. set out all reports received;
3. record all motions, the names of the mover and seconder, resolutions withdrawn, carried and lost;
4. record all business transacted by the Committee;
5. be confirmed by members of the Committee at its next meeting; and
6. be tabled and received by the Councils at the next Ordinary Meeting following receipt.

8. FINANCE & FINANCIAL REPORTING

8.1 Funding

All funds of the Councils provided to enable operation of the Library are to be held by the Council on behalf of the Councils.

The Committee has neither the power nor the authority to approve of the expenditure of Council monies.

The Treasurer is delegated by the Council, pursuant to the provisions of Section 44 of the Act, the power to approve expenditure of money and works, services or operations of the Library contained within a Budget of the Library that has been endorsed by the Committee and received by the Councils and adopted by the Council.

8. FINANCE & FINANCIAL REPORTING (Cont'd)

8.2 Contracts

The Committee may enter into a contract or arrangement on behalf of the Council, only to the extent that the Council has previously signified in writing its approval of the contract or arrangement.

8.3 Audit

The Auditors appointed by the Council from time to time shall be the auditors of the finances and administrative procedures of the Library.

The Library and the Committee must comply with all finance, administrative and other Policies and Procedures of the Council.

9. MEETINGS

9.1 Ordinary Meetings

The Committee shall meet on a minimum of four (4) occasions during each financial year.

All meetings of the Committee must be conducted in accordance with the provisions of Section 90 of the Act, a copy of which is included as Appendix 4 to this policy document.

Meetings of the Committee must be conducted in a place open to the public.

The Committee may order that the public be excluded from attendance at a meeting where the Committee considers it to be necessary and appropriate to act in a meeting closed to the public, in order to receive, discuss or consider in confidence any information or matter listed hereunder:

- (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
- (b) information the disclosure of which -
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the Library is conducting, or proposing to conduct, business, or to prejudice the commercial position of either the Library, the Committee, the Council or one or all of the Councils; and
 - (ii) would, on balance, be contrary to the public interest;
- (c) information the disclosure of which would reveal a trade secret;
- (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -

9. MEETINGS (Cont'd)

9.1 Ordinary Meetings (Cont'd)

- (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
- (ii) would, on balance, be contrary to the public interest;
- (e) matters affecting the security of the Library, the Committee, the Council or one or all of the Councils, member(s) or employee(s) thereof, or Council property, or the safety of any person;
- (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
- (g) matters that must be considered in confidence in order to ensure that the Library, the Committee, the Council or one or all of the Councils does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (h) legal advice;
- (i) information relating to actual litigation, or litigation that the Library, the Council or one or all of the Councils believes on reasonable grounds will take place, involving the Network, the Council or one or all of the Councils or employee(s) thereof;
- (j) information the disclosure of which -
 - (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the Library, the Council or any of the Councils, or a person engaged by the Library, the Council or one or all of the Councils); and
 - (ii) would, on balance, be contrary to the public interest;
- (k) tenders for the supply of goods, the provision of services or the carrying out of works;

In considering whether an order should be made, it is irrelevant that discussion of a matter in public may –

- (a) cause embarrassment to the Library, the Committee, the Council or one or all of the Councils concerned, or to member(s) or employee(s) thereof; or
- (b) cause a loss of confidence in the Library, the Committee, the Council or one or all of the Councils.

9. MEETINGS (Cont'd)

9.1 Ordinary Meetings (Cont'd)

If an order is made to exclude the public from a meeting, a note must be made in the Minutes of the making of the order and of the grounds on which it was made.

9.2 Observer Status

Observer status may be given by the Committee to a nominee from a body or group with an interest in the objectives of the Library.

Observer status does not confer voting rights nor the ability to address meetings of the Committee.

Permission to address a meeting of the Committee shall only be by invitation from the Chairperson of the Committee.

9.3 Special Meetings

A Special Meeting of the Committee may be held at any time.

The Chairperson must call a Special Meeting upon the written request of at least three (3) members of the Committee.

9.4 Notice of Meetings

Notice of every meeting of the Committee, including Special Meetings, shall be given in writing at least three (3) clear days prior to such meeting.

The Notice shall contain the date, time and place of the meeting and the business to be transacted thereat and be signed by either the Secretariate or Chairperson.

9.5 Time & Place of Meetings

The Committee may set the time and place of its own meetings taking into account the availability and convenience of the members of the Committee.

9.6 Quorum

A quorum for the purpose of all meetings of the Committee shall be ascertained by dividing the total number of members of the Committee for the time being in office by 2, ignoring any fraction resulting from the division, and adding one (eg. $6 / 2 = 3$, $\rightarrow 3 + 1 = 4$).

No business can be transacted at a meeting unless a quorum is present.

If a quorum is lost because a member cannot participate in a particular matter because of a conflict of interest (pursuant to the provisions of Division 3 of Part 4 of Chapter 5 of the Act), the matter must be adjourned so that the remainder of the meeting may proceed.

9. MEETINGS (Cont'd)

9.7 Proceedings at Meetings

The prevailing Local Government Regulations concerning proceedings at Council meetings shall apply to all meetings of this Committee.

A copy of the Local Government (Proceedings at Meetings) Regulations 2000 are included as Appendix 5 to this Policy Document.

9.8 Voting

Each member of the Committee (including the Chairperson) or where applicable, their deputy, shall exercise a deliberative vote at meetings of the Committee.

In the event of an equality of votes, the matter lapses.

9.9 Adjournment

The members present at any meeting of the Committee may adjourn such meeting from time to time and from place to place.

9.10 Remote Attendance

A telephone or video conference between members will, for the purposes of this clause, be taken to be a meeting of the Committee at which the participating members are present if:-

- (a) notice of the Meeting is given to all members in accordance with these Terms of Reference; and
- (b) each participating member is capable of communicating with every other participating member during the conference.

10. AGREEMENT TO SHARE RESPONSIBILITY AND COSTS

The Councils have agreed to jointly share responsibility and costs associated with the operation of the Library and the Committee.

A copy of the Resource and Funding Agreement between the Councils in this respect has been included as Appendix 1 to this Policy Document.

The formula used for the calculation of individual constituent Councils is included as Schedule 2 to this Policy Document.

11. BUSINESS PLAN

The Committee must, in consultation with the Councils, prepare an Annual Business Plan for the Library for inclusion with the Council's Annual Business Plan.

The Annual Business Plan must set out or include:-

- (a) the performance targets that the Library is to pursue; and

11. BUSINESS PLAN (Cont'd)

- (b) a statement of the financial and other resources, and internal processes, that will be required to achieve the Library's performance targets; and
- (c) the performance measures that are to be used to monitor and assess performance against targets.

12. Budget

The Committee must, in consultation with the Councils, prepare a Budget for the Library each financial year for inclusion with the Council's Budget.

Following endorsement by the Committee, the Budget must be provided to the Chief Executive Officer of each of the Councils within five (5) business days.

13. General

13.1 Sub Committees

The Committee may establish sub-committees from among its members to assist it in any matter provided that all actions of such sub-committees shall be approved of and confirmed by the Committee.

13.2 Risk Management

The Committee shall operate under the risk management principles adopted by the Council.

13.3 Liability of Committee Members

In accordance with Section 41(12) of the Act, no civil liability attaches to a member of the Committee for an honest act or omission in the exercise, performance or discharge, or purported exercise, performance or discharge, of the member's or Committee's powers, functions or duties.

13.4 Dissolution

The Council may at any time dissolve the Committee with the consent of the Councils.

Any assets or liabilities of the Library held by the Council on behalf of the Councils vest in or attach to the Councils.

In the event of dissolution and after payment of all expenses associated with the operation of the Library, any surplus assets shall be returned to the Councils in proportion to the contribution payable in the financial year prior to the passing of the resolution to dissolve.

14. DOCUMENT CONTROL

The electronic version of this Policy Document stored on the Council intranet is the controlled version.

Printed or hard copies of this Policy Document are uncontrolled.

Before using or relying on a printed or hard copy of this Policy Document, the user must verify that it is the current version.

15. INTERPRETATION

Any ambiguity or difficulty in the interpretation of this Policy Document shall be referred to the Chief Executive Officer and if needed, to the Council or the Councils, for direction.

Non-English translations of the Policy Document are available if required.

Persons having a special need that prevents them from understanding the contents of this Policy Document shall be provided with the Policy Document in a format that suits their needs.

16. PUBLIC AVAILABILITY OF POLICY DOCUMENT

The public may inspect a copy of this Policy Document, without charge, at the offices of the Council during normal office hours, and may obtain a copy for a fee fixed by the Council, if any.

Further enquiries in relation to the Policy Document should be directed to the Chief Executive Officer, by telephoning 08 8664 1139 or emailing admin@nacouncil.sa.gov.au.

17. REVIEW OF POLICY DOCUMENT

The Council may review this Policy Document from time to time, however it is anticipated that an annual review of the Policy Document will be undertaken.

18. ADOPTION OF POLICY DOCUMENT

This Council Policy Document “Council Committees – Flinders Mobile Library Management Committee”, was adopted by the Northern Areas Council at its meeting held on Tuesday Xth Month 2012.

19. APPENDICES / ATTACHMENTS

The following Appendices / Attachment(s) form part of this Policy Document.

- Schedule 1 Committee Membership
- Schedule 2 Formula for Calculation of Council Contributions

FLINDERS MOBILE LIBRARY MANAGEMENT COMMITTEE – TERMS OF REFERENCE

- Appendix 1 Resources and Funding Agreement between the Councils
- Appendix 2 Sections 73, 74 & 75 Local Government Act 1999
- Appendix 3 Section 91 Local Government Act 1999
- Appendix 4 Section 90 Local Government Act 1999
- Appendix 5 Local Government (Procedures at Meetings) Regulations 2000

Schedule 1 Committee Membership (Updated Month 2012 following Implementation)

Committee Chairperson

Cr Firstname LASTNAME

Northern Areas Council

Cr Firstname LASTNAME

Cr Firstname LASTNAME (Deputy)

District Council of Mount Remarkable

Cr Firstname LASTNAME

Cr Firstname LASTNAME

Cr Firstname LASTNAME (Deputy)

Port Pirie Regional Council

Cr Firstname LASTNAME

Cr Firstname LASTNAME

Cr Firstname LASTNAME (Deputy)

Schedule 2 Formula for Calculation of Individual Constituent Council Contributions

$$\frac{(E - R - B + b - R + r)}{C} \times \frac{c}{1}$$

Where

- E = Estimated Expenditure for the financial year.
- R = Estimated Revenue from all sources other than Constituent Council contributions for the financial year.
- B = The surplus or deficit brought forward from the preceding financial year.
- b = The deficit brought forward from the preceding financial year.
- R = Transfers to Reserves
- r = Transfers from Reserves
- C = Total population of the townships (provided by PLAIN Central Services) at which the Flinders Mobile Library Van stops for provision of library services, in all Constituent Councils at the last ensuing 30th June.
- c = Total population of the townships (provided by PLAIN Central Services) at the last ensuing 30th June at which the Flinders Mobile Library van stops for provision of library services, for a Constituent Council.

Annexure 1 Resource and Funding Agreement between the Councils

Annexure 2 Sections 73, 74 & 75 Local Government Act 1999

73 Conflict of interest

- (1) A member of a council has an interest in a matter before the council if –
- (a) the member or a person with whom the member is closely associated would, if the matter were decided in a particular manner, receive or have a reasonable expectation of receiving a direct or indirect pecuniary benefit or suffer or have a reasonable expectation of suffering a direct or indirect pecuniary detriment; or
 - (b) the member or a person with whom the member is closely associated would, if the matter were decided in a particular manner, obtain or have a reasonable expectation of obtaining a non-pecuniary benefit or suffer or have a reasonable expectation of suffering a non-pecuniary detriment,
- (not being a benefit or detriment that would be enjoyed or suffered in common with all or a substantial proportion of the ratepayers, electors or residents of the area or a ward or some other substantial class of persons).
- (2) A person is closely associated with a member of a council -
- (a) if that person is a body corporate of which the member is a director or a member of the governing body; or
 - (b) if that person is a proprietary company in which the member is a shareholder; or
 - (c) if that person is a beneficiary under a trust or an object of a discretionary trust of which the member is a trustee; or
 - (d) if that person is a partner of the member; or
 - (e) if that person is the employer or an employee of the member; or
 - (f) if that person is a person from whom the member has received or might reasonably be expected to receive a fee, commission or other reward for providing professional or other services; or
 - (g) if that person is a relative of the member.
- (3) A member of a council who is a member, officer or employee of an agency or instrumentality of the Crown, will be regarded as having an interest in a matter before the council if the matter directly concerns that agency or instrumentality but otherwise will not be regarded as having an interest in a matter by virtue of being a member, officer or employee of the agency or instrumentality.
- (4) In this section -
- agency or instrumentality of the Crown includes—
- (a) an administrative unit of the Public Service;
 - (b) a body corporate comprised of, or including or having a governing body comprised of or including, a Minister or Ministers of the Crown or a person or persons appointed by the Governor or a Minister or other agency or instrumentality of the Crown.

Annexure 2 Sections 73, 74 & 75 Local Government Act 1999 (Cont'd)

74 Members to disclose interests

- (1) A member of a council who has an interest in a matter before the council must disclose the interest to the council.
- (2) A member in making a disclosure under subsection (1) must provide full and accurate details of the relevant interest.
- (3) A disclosure made under subsection (1) must be recorded in the minutes of the council (including details of the relevant interest).
- (4) A member of a council who has an interest in a matter before the council must not—
 - (a) propose or second a motion relating to the matter; or
 - (b) take part in discussion by the council relating to that matter; or
 - (c) while such discussion is taking place, be in, or in the close vicinity of, the room in which or other place at which that matter is being discussed; or
 - (d) vote in relation to that matter.
- (4a) The following qualifications apply:
 - (a) subsections (1) and (4) do not apply -
 - (i) to questions relating to allowances or benefits that a council is empowered to pay to, or confer on, members, their spouses or members of their families; or
 - (ii) to matters of a class exempted by regulation from the provisions of those subsections; or
 - (iii) to matters in relation to which the Minister has granted an exemption from the provisions of those subsections;
 - (b) a member of a council who has disclosed an interest under subsection (1) may, by permission of the council, attend during proceedings of the council on the relevant matter in order to ask or answer questions, provided that the meeting is open to the public, the member withdraws from the room after asking or answering the questions, and the member does not in any other way take part in any debate or vote on the matter;
 - (c) subsection (4) does not apply in relation to a matter in which the member has an interest by virtue only of the fact that the member or a person closely associated with the member—
 - (i) is a member of, or director or member of the governing body of, a non-profit association; or
 - (ii) is a member of a body (whether corporate or unincorporate) comprised of or including, or having a governing body comprised of or including, a person or persons appointed by the council;

Annexure 2 Sections 73, 74 & 75 Local Government Act 1999 (Cont'd)

74 Members to disclose interests (Cont'd)

- (d) a member does not contravene this section if the interest was unknown to the member at the relevant time.
- (5) The fact that a member or members of a council have failed to comply with this section in relation to a particular matter does not, of itself, invalidate a resolution or decision on that matter but, if it appears that the non-compliance may have had a decisive influence on the passing of the resolution or the making of the decision, the District Court may, on the application of the council, the Minister or a person affected by the resolution or decision, annul the resolution or decision and make such ancillary or consequential orders as it thinks fit.
- (6) In this section -
non-profit association means a body (whether corporate or unincorporate) -
 - (a) that does not have as its principal object or one of its principal objects the carrying on of a trade or the making of a profit; and
 - (b) that is so constituted that its profits (if any) must be applied towards the purposes for which it is established and may not be distributed to its members,and includes the LGA.

75 Application of Division to members of committees and subsidiaries

- (1) The provisions of this Division extend to committees and to members of committees established by councils as if -
 - (a) a committee were a council; and
 - (b) a member of a committee were a member of a council.
- (2) The provisions of this Division extend to subsidiaries and to board members of subsidiaries as if -
 - (a) a subsidiary were a council; and
 - (b) a board member of a subsidiary were a member of a council.

Annexure 3 Section 91 Local Government Act 1999

91 Minutes and release of documents

- (1) The chief executive officer must ensure that minutes are kept of the proceedings at every meeting of the council or a council committee.
- (2) If the chief executive officer is excluded from a meeting pursuant to Part 3, the person presiding at the meeting must ensure that minutes are kept.
- (3) Each member of the council must, within five days after a meeting of the council or a council committee, be supplied with a copy of all minutes of the proceedings of the meeting kept under this section.
- (4) A copy of the minutes of a meeting of the council must be placed on public display in the principal office of the council within five days after the meeting and kept on display for a period of one month.
- (5) A person is entitled to inspect, without payment of a fee, at the principal office of the council -
 - (a) minutes kept under this section; and
 - (b) reports to the council or a council committee received at a meeting of the council or committee; and
 - (c) recommendations presented to the council in writing and adopted by resolution of the council; and
 - (d) budgetary or other financial statements adopted by the council.
- (6) A person is entitled, on payment of a fee fixed by the council, to a copy of any documents available for inspection under subsection (5).
- (7) However, subsections (4), (5) and (6) do not apply to a document or part of a document if -
 - (a) the document or part relates to a matter dealt with by the council or council committee on a confidential basis under Part 3; and
 - (b) the council or council committee orders that the document or part be kept confidential.
- (8) A council must not make an order under subsection (7) -
 - (a) to prevent the disclosure of the remuneration or conditions of service of an employee of the council after the remuneration or conditions have been set or determined; or
 - (b) to prevent the disclosure of the identity of a successful tenderer for the supply of goods or the provision of services (including the carrying out of works), or of any reasons adopted by the council as to why a successful tenderer has been selected; or
 - (ba) to prevent the disclosure of the amount or amounts payable by the council under a contract for the supply of goods or the provision of services (including the carrying out of works) to, or for the benefit of, the council after the contract has been entered into by all parties to the contract; or

Annexure 3 Section 91 Local Government Act 1999 (Cont'd)

91 Minutes and release of documents (Cont'd)

- (c) to prevent the disclosure of the identity of land that has been acquired or disposed of by the council, or of any reasons adopted by the council as to why land has been acquired or disposed of by the council.
- (9) If an order is made under subsection (7) -
 - (a) the council or council committee must specify the duration of the order or the circumstances in which the order will cease to apply, or a period after which the order must be reviewed, and, in any event, any order that operates for a period exceeding 12 months must be reviewed at least once in every year; and
 - (b) the council or council committee must ensure that a note is made in the minutes recording the making of the order, the grounds on which it was made, and the decision of the council or council committee under paragraph (a); and
 - (c) the council or council committee may delegate to an employee of the council the power to revoke the order.
- (10) No action for defamation lies against the council in respect of -
 - (a) the accurate publication under this section of any information, statement or document (in whatever form); or
 - (b) the accurate publication under this section of a transcript, recording or other record of a meeting of a council or a council committee.
- (11) A document purporting to be minutes of proceedings at a meeting of a council, or a council committee, or to be a copy of or extract from such minutes, and to be signed by the chief executive officer, will be accepted as proof, in the absence of proof to the contrary, of the matters contained in the document.

Annexure 4 Section 90 Local Government Act 1999

90 Meetings to be held in public except in special circumstances

- (1) Subject to this section, a meeting of a council or council committee must be conducted in a place open to the public.
- (2) A council or council committee may order that the public be excluded from attendance at a meeting to the extent (and only to the extent) that the council or council committee considers it to be necessary and appropriate to act in a meeting closed to the public in order to receive, discuss or consider in confidence any information or matter listed in subsection (3) (after taking into account any relevant consideration under that subsection).
- (3) The following information and matters are listed for the purposes of subsection (2):
 - (a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead);
 - (b) information the disclosure of which -
 - (i) could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council; and
 - (ii) would, on balance, be contrary to the public interest;
 - (c) information the disclosure of which would reveal a trade secret;
 - (d) commercial information of a confidential nature (not being a trade secret) the disclosure of which -
 - (i) could reasonably be expected to prejudice the commercial position of the person who supplied the information, or to confer a commercial advantage on a third party; and
 - (ii) would, on balance, be contrary to the public interest;
 - (e) matters affecting the security of the council, members or employees of the council, or council property, or the safety of any person;
 - (f) information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence, or the right to a fair trial;
 - (g) matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
 - (h) legal advice;
 - (i) information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council;
 - (j) information the disclosure of which –

Annexure 4 Section 90 Local Government Act 1999 (Cont'd)

90 Meetings to be held in public except in special circumstances (Cont'd)

- (i) would divulge information provided on a confidential basis by or to a Minister of the Crown, or another public authority or official (not being an employee of the council, or a person engaged by the council); and
 - (ii) would, on balance, be contrary to the public interest;
 - (k) tenders for the supply of goods, the provision of services or the carrying out of works;
 - (m) information relating to a proposed amendment to a Development Plan under the Development Act 1993 before a Plan Amendment Report relating to the amendment is released for public consultation under that Act;
 - (n) information relevant to the review of a determination of a council under the Freedom of Information Act 1991.
- (4) In considering whether an order should be made under subsection (2), it is irrelevant that discussion of a matter in public may -
- (a) cause embarrassment to the council or council committee concerned, or to members or employees of the council; or
 - (b) cause a loss of confidence in the council or council committee.
- (5) A person who, knowing that an order is in force under subsection (2), enters or remains in a room in which a meeting of the council or council committee is being held is guilty of an offence and liable to a penalty not exceeding \$500 and if such a person fails to leave the room on request it is lawful for an employee of the council or a member of the police force to use reasonable force to remove him or her from the room.
- (6) Subsection (5) does not apply to -
- (a) a member of the council or the council committee; or
 - (b) any other person permitted to be in the room by the council or the council committee.
- (7) If an order is made under subsection (2), a note must be made in the minutes of the making of the order and of the grounds on which it was made.
- (8) The duty to hold a meeting of a council or council committee at a place open to the public does not in itself make unlawful informal gatherings or discussion involving -
- (a) members of the council or council committee; or
 - (b) members of the council or council committee and staff,
- provided that a matter which would ordinarily form part of the agenda for a formal meeting of a council or council committee is not dealt with in such a way as to obtain, or effectively obtain, a decision on the matter outside a formally constituted meeting of the council or council committee.

Annexure 4 Section 90 Local Government Act 1999 (Cont'd)

Examples –

The following are examples of informal gatherings or discussions that might be held under subsection (8):

- (a) planning sessions associated with the development of policies or strategies;
- (b) briefing or training sessions;
- (c) workshops;
- (d) social gatherings to encourage informal communication between members or between members and staff.

(9) In this section –

personal affairs of a person includes -

- (a) that person's -
 - (i) financial affairs;
 - (ii) criminal records;
 - (iii) marital or other personal relationships;
 - (iv) personal qualities, attributes or health status;
- (b) that person's employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person,
but does not include the personal affairs of a body corporate.

Annexure 5 Local Government (Procedures at Meetings) Regulations 2000

Part 1 - Preliminary

1. Short title

These regulations may be cited as the Local Government (Procedures at Meetings) Regulations 2000.

2. Commencement

These regulations will come into operation on 17 May 2000.

3. Revocation

The Local Government (Proceedings of Councils) Regulations 1984 (see Gazette 2.8.1984 p457), as varied, are revoked.

4. Interpretation

(1) In these regulations, unless the contrary intention appears –

Act means the Local Government Act 1999;

clear days - see subregulation (2);

deputation means a person or group of persons who wish to appear personally before a council or council committee in order to address the council or committee (as the case may be) on a particular matter;

formal motion means a motion -

(a) that the meeting proceed to the next business; or

(b) that the question be put; or

(c) that the question lie on the table; or

(d) that the question be adjourned; or

(e) that the meeting be adjourned¹;

Guiding Principles - see regulation 5;

member means a member of the council or council committee (as the case may be);

point of order means a point raised to draw attention to an alleged breach of the Act or these regulations in relation to the proceedings of a meeting;

presiding member means the person who is the presiding member of a council or council committee (as the case may be) and includes any person who is presiding at a particular meeting;

written notice includes a notice given in a manner or form determined by the council.

Annexure 5 Local Government (Procedures at Meetings) Regulations 2000 (Cont'd)

- (2) In the calculation of clear days in relation to the giving of notice before a meeting -
 - (a) the day on which the notice is given, and the day on which the meeting occurs, will not be taken into account; and
 - (b) Saturdays, Sundays and public holidays will be taken into account.

5. Guiding Principles

The following principles (the Guiding Principles) should be applied with respect to the procedures to be observed at a meeting of a council or a council committee-

- (a) procedures should be fair and contribute to open, transparent and informed decision-making;
- (b) procedures should encourage appropriate community participation in the affairs of the council;
- (c) procedures should reflect levels of formality appropriate to the nature and scope of responsibilities exercised at the meeting;
- (d) procedures should be sufficiently certain to give the community and decision makers confidence in the deliberations undertaken at the meeting.

Part 2 - Meetings of councils and key committees

Division 1 - Preliminary

6. Application of Part

The provisions of this Part apply to or in relation to -

- (a) the meetings of a council; and
- (b) the meetings of a council committee performing regulatory activities; and
- (c) the meetings of any other council committee if the council has, by resolution, determined that this Part should apply to that committee.

7. Discretionary procedures

- (1) Subject to the requirements of the Act, if a provision of this Part is expressed to be capable of being varied at the discretion of the council pursuant to this regulation, then a council may, by a resolution supported by at least two-thirds of the members of the council as a whole, determine that a code of practice prepared or adopted by the council that establishes its own procedures for the relevant matter or matters will apply in substitution for the relevant provision (and such a determination will have effect according to its terms).

Part 2 - Meetings of councils and key committees (Cont'd)

Division 1 – Preliminary (Cont'd)

7. Discretionary procedures (Cont'd)

- (2) A council should, at least once in every financial year, review the operation of a code of practice under this regulation.
- (3) A council may at any time, by resolution supported by at least two-thirds of the members of the council as a whole, alter a code of practice, or substitute or revoke a code of practice.
- (4) A council must, in considering the exercise of a power under this regulation, take into account the Guiding Principles.
- (5) A person is entitled to inspect (without charge) the code of practice of a council under this regulation at the principal office of the council during ordinary office hours.
- (6) A person is entitled, on payment of a fee fixed by the council, to a copy of the code of practice.
- (7) Regulation 13(4) does not apply to a motion under subregulation (3).
- (8) This regulation does not limit or derogate from the operation of regulation 21¹.

Note -

- 1 Furthermore, if a matter is not dealt with by the Act or these regulations (including under a code of practice under this regulation), then the relevant procedure will be -
 - (a) as determined by the council; or
 - (b) in the case of a council committee where a determination has not been made by the council - as determined by the committee.

(See sections 86(8) and 89(1) of the Act.)

Division 2 - Prescribed procedures

8. Commencement of meetings and quorums

- (1) A meeting will commence as soon after the time specified in the notice of meeting as a quorum is present.
- (2) If the number of apologies received by the chief executive officer indicates that a quorum will not be present at a meeting, the chief executive officer may adjourn the meeting to a specified day and time.
- (3) If at the expiration of 30 minutes from the time specified in the notice of meeting as the time of commencement a quorum is not present, the presiding member or, in the absence of a presiding member, the chief executive officer, will adjourn the meeting to a specified day and time.

Division 2 - Prescribed procedures (Cont'd)

8. Commencement of meetings and quorums (Cont'd)

- (4) If a meeting is adjourned for want of a quorum, the chief executive officer will record in the minute book the reason for the adjournment, the names of any members present, and the date and time to which the meeting is adjourned.
- (5) If a meeting is adjourned to another day, the chief executive officer must -
 - (a) give notice of the adjourned meeting to each member setting out the date, time and place of the meeting; and
 - (b) give notice of the adjourned meeting to the public by causing a notice setting out the date, time and place of the meeting to be placed on display at the principal office of the council.

9. Minutes

- (1) The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.
- (2) No discussion on the minutes may occur before confirmation, except as to the accuracy of the minutes as a record of proceedings.
- (3) On the confirmation of the minutes, the presiding member will -
 - (a) initial each page of the minutes, which pages are to be consecutively numbered; and
 - (b) place his or her signature and the date of confirmation at the foot of the last page of the minutes.
- (4) The minutes of the proceedings of a meeting must include -
 - (a) the names of the members present at the meeting; and
 - (b) in relation to each member present -
 - (i) the time at which the person entered or left the meeting; and
 - (ii) unless the person is present for the whole meeting, the point in the proceedings at which the person entered or left the meeting; and
 - (c) each motion or amendment, and the names of the mover and seconder; and
 - (d) any amendment or withdrawal of a motion or amendment; and
 - (e) whether a motion or amendment is carried or lost; and
 - (f) any disclosure of interest made by a member; and
 - (g) an account of any personal explanation given by a member; and

Division 2 - Prescribed procedures (Cont'd)

9. Minutes (Cont'd)

- (h) details of the making of an order under subsection (2) of section 90 of the Act (see subsection (7) of that section); and
- (i) a note of the making of an order under subsection (7) of section 91 of the Act in accordance with the requirements of subsection (9) of that section; and
- (j) details of any adjournment of business; and
- (k) any other matter required to be included in the minutes by or under the Act or any regulation.

10. Questions

- (1) A member may ask a question on notice by giving the chief executive officer written notice of the question at least five clear days before the date of the meeting at which the question is to be asked.
- (2) If notice of a question is given under subregulation (1) -
 - (a) the chief executive officer must ensure that the question is placed on the agenda for the meeting at which the question is to be asked; and
 - (b) the question and the reply must be entered in the minutes of the relevant meeting.
- (3) A member may ask a question without notice at a meeting.
- (4) The presiding member may allow the reply to a question without notice to be given at the next meeting.
- (5) A question without notice and the reply will not be entered in the minutes of the relevant meeting unless the members present at the meeting resolve that an entry should be made.
- (6) The presiding member may rule that a question with or without notice not be answered if the presiding member considers that the question is vague, irrelevant, insulting or improper.

11. Petitions

- (1) A petition to the council must -
 - (a) be legibly written or typed or printed; and
 - (b) clearly set out the request or submission of the petitioners; and
 - (c) be addressed to the council and delivered to the principal office of the council.

Division 2 - Prescribed procedures (Cont'd)

11. Petitions (Cont'd)

- (2) If a petition is received under subregulation (1), the chief executive officer must ensure that the petition or, if the council has so determined as a policy of the council, a statement as to the nature of the request or submission and the number of signatures, is placed on the agenda for the next ordinary meeting of the council or, if so provided by a policy of the council, a committee of the council.
- (3) Subregulation (2) may be varied at the discretion of the council pursuant to regulation 7.

12. Deputations

- (1) A person or persons wishing to appear as a deputation at a meeting must deliver (to the principal office of the council) a written request to the council.
- (2) The chief executive officer must transmit a request received under subregulation (1) to the presiding member.
- (3) The presiding member may refuse to allow the deputation to appear at a meeting.
- (4) The chief executive officer must take reasonable steps to ensure that the person or persons who requested a deputation are informed of the outcome of the request.
- (5) If the presiding member refuses to allow a deputation to appear at a meeting, the presiding member must report the decision to the next meeting of the council or council committee (as the case may be).
- (6) The council or council committee may resolve to allow a deputation to appear despite a contrary ruling by the presiding member.
- (7) A council may refer the hearing of a deputation to a council committee.

13. Motions

- (1) A member may bring forward any business in the form of a written notice of motion.
- (2) The notice of motion must be given to the chief executive officer at least five clear days before the date of the meeting at which the motion is to be moved.
- (3) A motion the effect of which, if carried, would be to revoke or amend a resolution passed since the last periodic election of the council must be brought by written notice of motion.

Division 2 - Prescribed procedures (Cont'd)

13. Motions (Cont'd)

- (4) If a motion under subregulation (3) is lost, a motion to the same effect cannot be brought—
 - (a) until after the expiration of 12 months; or
 - (b) until after the next periodic election,
 whichever is the sooner.
- (5) Subject to the Act and these regulations, a member may also bring forward any business by way of a motion without notice.
- (6) The presiding member may refuse to accept a motion without notice if, after taking into account the Guiding Principles, he or she considers that the motion should be dealt with by way of a written notice of motion.
- (7) The presiding member may refuse to accept a motion if the subject matter is, in his or her opinion, beyond the power of the council or council committee (as the case may be).
- (8) A motion will lapse if it is not seconded at the appropriate time.
- (9) A member moving or seconding a motion will speak to the motion at the time of moving or seconding the motion.
- (10) A member may only speak once to a motion except -
 - (a) to provide an explanation in regard to a material part of his or her speech, but not so as to introduce any new matter; or
 - (b) with leave of the meeting; or
 - (c) as the mover in reply.
- (11) A member who has spoken to a motion may not at a later stage of the debate move or second an amendment to the motion.
- (12) A member who has not spoken in the debate on a question may move a formal motion.
- (13) A formal motion must be in the form of a motion set out in subregulation (14) (and no other formal motion to a different effect will be recognised).
- (14) If the formal motion is -
 - (a) that the meeting proceed to the next business, then the effect of the motion, if successful, is, in the case of an amendment, that the amendment lapses and the meeting proceeds with the consideration of the motion before the meeting without further reference to the amendment and, in the case of a motion, that the motion lapses and the meeting proceeds to the next item of business; or

Division 2 - Prescribed procedures (Cont'd)

13. Motions (Cont'd)

- (b) that the question be put, then the effect of the motion, if successful, is that debate is terminated and the question put to the vote by the presiding member without further debate; or
 - (c) that the question lie on the table, then the effect of the motion, if successful, is that the meeting immediately moves to the next item of business and the question can then only be retrieved at a later time by resolution (and, if so retrieved, debate is then resumed at the point of interruption); or
 - (d) that the question be adjourned, then the effect of the motion, if successful, is that the question is disposed of for the time being but debate can be resumed at the later time (at the point of interruption); or
 - (e) that the meeting be adjourned, then the effect of the motion, if successful, is that the meeting is brought to an end immediately without the consideration of further business.
- (15) If seconded, a formal motion takes precedence and will be put by the presiding member without discussion unless the motion is for an adjournment (in which case discussion may occur (but only occur) on the details for resumption).
- (16) A formal motion does not constitute an amendment to a substantive motion.
- (17) If a formal motion is lost -
- (a) the meeting will be resumed at the point at which it was interrupted; and
 - (b) if the formal motion was put during debate (and not at the end of debate) on a question, then a similar formal motion (ie, a motion to the same effect) cannot be put until at least one member has spoken on the question.
- (18) A formal motion for adjournment must include the reason for the adjournment and the details for resumption.
- (19) Subregulations (9), (10) and (11) may be varied at the discretion of the council pursuant to regulation 7.

14. Amendments to motions

- (1) A member who has not spoken to a motion at an earlier stage of the debate may move or second an amendment to the motion.
- (2) An amendment will lapse if it is not seconded at the appropriate time.

Division 2 - Prescribed procedures (Cont'd)

14. Amendments to motions (Cont'd)

- (3) A person who moves or seconds an amendment (and, if he or she chooses to do so, speaks to the amendment) will, in so doing, be taken to have spoken to the motion to which the amendment relates.
- (4) If an amendment is lost, only one further amendment may be moved to the original motion.
- (5) If an amendment is carried, only one further amendment may be moved to the original motion.
- (6) Subregulations (1), (3), (4) and (5) may be varied at the discretion of the council pursuant to regulation 7.

15. Variations etc

- (1) The mover of a motion or amendment may, with the consent of the seconder, request leave of the meeting to vary, alter or withdraw the motion or amendment.
- (2) The presiding member must immediately put the question for leave to be granted and no debate will be allowed on that question.

16. Addresses by members etc

- (1) A member must not speak for longer than five minutes at any one time without leave of the meeting.
- (2) A member may, with leave of the meeting, raise a matter of urgency.
- (3) A member may, with leave of the meeting, make a personal explanation.
- (4) The subject matter of a personal explanation may not be debated.
- (5) The contribution of a member must be relevant to the subject matter of the debate.
- (6) Subregulations (1) and (2) may be varied at the discretion of the council pursuant to regulation 7.

17. Voting

- (1) The presiding member, or any other member, may ask the chief executive officer to read out a motion before a vote is taken.
- (2) The presiding member will, in taking a vote, ask for the votes of those members in favour of the question and then for the votes of those members against the question (and may do so as often as is

Division 2 - Prescribed procedures (Cont'd)

17. Voting

necessary to enable him or her to determine the result of the voting), and will then declare the outcome.

- (3) A person who is not in his or her seat is not permitted to vote.
- (4) Subregulation (3) may be varied at the discretion of the council pursuant to regulation 7.

18. Divisions

- (1) A division will be taken at the request of a member.
- (2) If a division is called for, it must be taken immediately and the previous decision of the presiding member as to whether the motion was carried or lost is set aside.
- (3) The division will be taken as follows -
 - (a) the members voting in the affirmative will, until the vote is recorded, stand in their places; and
 - (b) the members voting in the negative will, until the vote is recorded, sit in their seats; and
 - (c) the presiding member will count the number of votes and then declare the outcome.
- (4) The chief executive officer will record in the minutes the names of members who voted in the affirmative and the names of the members who voted in the negative (in addition to the result of the vote).
- (5) Subregulation (3) may be varied at the discretion of the council pursuant to regulation 7.

19. Tabling of information

- (1) A member may require the chief executive officer to table any documents of the council relating to a motion that is before a meeting (and the chief executive officer must then table the documents within a reasonable time, or at a time determined by the presiding member after taking into account the wishes of the meeting, and if the member who has required the tabling indicates that he or she is unwilling to vote on the motion until the documents are tabled, then the matter must not be put to the vote until the documents are tabled).
- (2) The chief executive officer may, in tabling a document, indicate that in his or her opinion consideration should be given to dealing with the document on a confidential basis under section 90 or 91 of the Act.

Division 2 - Prescribed procedures (Cont'd)

20. Adjourned business

- (1) If a formal motion for a substantive motion to be adjourned is carried—
 - (a) the adjournment may either be to a later hour of the same day, to another day, or to another place; and
 - (b) the debate will, on resumption, continue from the point at which it was adjourned.
- (2) If debate is interrupted for want of a quorum and the meeting is then adjourned, the debate will, on resumption, continue from the point at which it was interrupted.
- (3) Business adjourned from a previous meeting must be dealt with before any new business at a subsequent meeting.
- (4) The provisions of this regulation may be varied at the discretion of the council pursuant to regulation 7.

21. Short-term suspension of proceedings

- (1) If the presiding member considers that the conduct of a meeting would benefit from suspending the operation of all or some of the provisions of this Division for a period of time in order to allow or facilitate informal discussions, the presiding member may, with the approval of at least two-thirds of the members present at the meeting, suspend the operation of this Division (or any part of this Division) for a period determined by the presiding member.
- (2) The Guiding Principles must be taken into account when considering whether to act under subregulation (1).
- (3) If a suspension occurs under subregulation (1) -
 - (a) a note of the suspension, including the reasons for and period of suspension, must be entered in the minutes; and
 - (b) the meeting may proceed provided that a quorum is maintained but, during the period of suspension -
 - (i) the provisions of the Act must continue to be observed¹; and
 - (ii) no act or discussion will have any status or significance under the provisions which have been suspended; and
 - (iii) no motion may be moved, seconded, amended or voted on, other than a motion that the period of suspension should be brought to an end; and
 - (c) the period of suspension should be limited to achieving the purpose for which it was declared; and
 - (d) the period of suspension will come to an end if -
 - (i) the presiding member determines that the period should be brought to an end; or

Division 2 - Prescribed procedures (Cont'd)

21. Short-term suspension of proceedings

- (ii) at least two-thirds of the members present at the meeting resolve that the period should be brought to an end.

Note -

1. See particularly Part 4 of Chapter 5, and Chapter 6, of the Act.

Part 3 - Meetings of other committees

22. Application of Part

The provisions of this Part apply to or in relation to the meetings of any council committee that is not subject to the operation of Part 2.

23. Notice of meetings for members

Pursuant to section 87(15) of the Act, section 87 is modified in its application in relation to the meetings of a committee to which this Part applies as if subsections (4) and (7) to (10) of that section provided as follows:

- (a) that notice of a meeting of the committee may be given in a form determined by the committee after taking into account the nature and purpose of the committee; and
- (b) that notice need not be given for each meeting separately; and
- (c) that if ordinary meetings of the committee have a set agenda then notice of such a meeting need not contain, or be accompanied by, the agenda for the meeting; and
- (d) that it is not necessary for the chief executive officer to ensure that each member of the committee at the time that notice of a meeting is given is supplied with a copy of any documents or reports that are to be considered at the meeting.

24. Public notice of committee meetings

Pursuant to section 88(7) of the Act, section 88 is modified in its application in relation to the meetings of a committee to which this Part applies as if subsections (2), (3) and (4) provided as follows:

- (a) that public notice need not be given for each meeting separately; and
- (b) that public notice may be given by displaying a notice and agenda in a place or places determined by the chief executive officer after taking into account the nature and purpose of the committee.

Part 3 - Meetings of other committees (Cont'd)

25. Minutes

- (1) The minutes of the proceedings of a meeting must include -
 - (a) the names of the members present at the meeting; and
 - (b) each motion carried at the meeting; and
 - (c) any disclosure of interest made by a member; and
 - (d) details of the making of an order under subsection (2) of section 90 of the Act (see subsection (7) of that section); and
 - (e) a note of the making of an order under subsection (7) of section 91 of the Act in accordance with the requirements of subsection (9) of that section.
- (2) The minutes of the proceedings at a meeting must be submitted for confirmation at the next meeting or, if that is omitted, at a subsequent meeting.

Part 4 - Miscellaneous

26. Quorum for committees

The prescribed number of members of a council committee constitutes a quorum of the committee and no business can be transacted at a meeting unless a quorum is present.

The prescribed number of members of a council committee is -

- (a) unless paragraph (b) applies—a number ascertained by dividing the total number of members of the committee by 2, ignoring any fraction resulting from the division, and adding one; or
- (b) a number determined by the council.

Note -

See also section 41(6) of the Act.

27. Voting at committee meetings

- (1) Subject to the Act and these regulations, a question arising for decision at a meeting of a council committee will be decided by a majority of the votes cast by the members present at the meeting and entitled to vote on the question.
- (2) Each member of a council who is a member of a council committee and who is present at a meeting of the committee must, subject to a provision of the Act to the contrary, vote on a question arising for decision at that meeting.
- (3) The presiding member of a council committee has a deliberative vote on a question arising for decision at the meeting but does not, in the event of an equality of votes, have a casting vote.

Part 4 – Miscellaneous (Cont'd)

28. Points of order

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

29. Interruption of meetings by members

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

Part 4 – Miscellaneous (Cont'd)

29. Interruption of meetings by members

(6) A member who -

- (a) refuses to leave a meeting in contravention of subregulation (4); or
- (b) enters a meeting in contravention of a suspension under subregulation (5),

is guilty of an offence.

Maximum penalty: \$1 250.

30. Interruption of meetings by others

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

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

Maximum penalty: \$500.