

COUNCIL MEETING PROCEDURES

INFORMATION SHEET

November 2018

The Local Government (Meeting Procedures) Regulations 2005

The *Local Government (Meeting Procedures) Regulations 2005* (the Regulations) provide a uniform and comprehensive set of rules for the conduct of council meetings.

The Regulations are available at:
<http://www.thelaw.tas.gov.au/>

This information sheet focuses on the key meeting procedure requirements contained within the Regulations. It is the obligation of councillors to obtain the Regulations and become familiar with their content.

Types of meetings (Reg. 4)

There are three types of council meeting covered in the Meeting Regulations:

- an ordinary meeting;
- a special meeting; and
- a committee meeting.

Ordinary meeting (Reg's 4 & 6)

An ordinary meeting is the regular meeting of council which is to be held at least once a month. The general manager convenes the first ordinary meeting after an election and the mayor convenes subsequent meetings.

Most councils agree on a regular schedule of meetings for the next 12 months. The general manager is to convene an ordinary meeting where a meeting has not been held in the previous month.

Special meeting (Reg. 4)

A special meeting is convened for a particular purpose and can be requested by a majority of councillors, or by a council meeting.

The request must be in writing and include the subject matter and any motions to be considered. The request must be signed by the councillors and lodged with the mayor.

Council committee meeting (Reg. 5)

A council committee is essentially a sub-committee of council that meets to perform a specific function, for example:

- finance;
- planning;
- community services; or
- health and environmental services.

Chairperson

The mayor is the chairperson of an ordinary or special council meeting. In his/her absence the deputy mayor is the chairperson. If both are absent, councillors present are to elect one of their number to be chairperson for the meeting.

A committee is convened by the chairperson of the committee. As per regulation 5, the chairperson of a council committee meeting may either be nominated by the council or elected by the members of the committee. If the chairperson is absent from the meeting the members present elect one of their number to be the chairperson.

Notice of meetings (Reg. 7)

The general manager is to give councillors written notice of a council meeting.

Notice for an ordinary meeting is to be given at least four days, but not more than 14 days prior to the meeting.

Notice for a special meeting is to be given at least two days, but not more than 14 days prior to the meeting.

The general manager is also to publish a notice in a daily newspaper, with circulation in the municipal area, advertising the time and place of the meeting. For a special meeting, the notice is to state whether any part of the meeting is to be closed and include any details of the matters to be discussed in any part of the meeting that is not to be closed.

Open meetings

A meeting is to be open to the public unless closed under regulation 15.

Closed meetings (Reg. 15)

A council may decide to close all or part of a meeting to the public. If it is a council meeting, the decision must be made by an absolute majority¹.

If a council committee decides to close a meeting, it may do so by simple majority².

A meeting may be closed to the public only for the reasons outlined in regulation 15(2) of the Regulations. These reasons include:

- matters relating to commercial in confidence;
- personnel;
- industrial; or
- security issues.

Under subregulation 15(3), a meeting cannot be closed when council is acting as a planning authority, considering planning permits or dealing with matters relating to the sale of

public land under section 178 of the *Local Government Act 1993* (the Act).

The only instance in which a council may discuss matters under subsection 15(3) in closed session is where the matters to be considered relate to actual or possible legal action to be taken by or involving the council.

Agendas (Reg. 8)

The general manager is to prepare an agenda for each meeting along and provide councillors with the agenda and any associated documents.

For an ordinary meeting, the agenda and associated documents are to be made available at least four days beforehand. For a special meeting, the agenda and associated documents are to be made available at least two days beforehand.

The general manager is also required to ensure that the agenda is publicly available, as per regulation 9.

An agenda for an ordinary meeting is to provide, but is not limited to, the following:

- attendances and apologies;
- confirmation of the minutes;
- the date and purpose of any workshop held since the last meeting;
- applications for leave of absence;
- declarations of pecuniary interest;
- public question time;
- reports; and
- matters for discussion.

The general manager is to arrange the agenda to ensure that planning matters are dealt with sequentially. Other business is to be dealt with in the order set out in the agenda, unless the council, by absolute majority, determines otherwise.

1."absolute majority" more than half the elected councillors, whether or not any of them are present at a council meeting

2."simple majority" the majority of councillors present and able to vote at a council or committee meeting

Discussion of matters not on the agenda (Reg. 8)

A matter not specifically listed on the agenda may not be discussed at a council meeting. The council may decide by absolute majority (for ordinary meeting) or simple majority (council committee) to deal with such a matter if the general manager reports:

- the reason it was not possible to put the matter on the agenda;
- that the matter is urgent; and
- that advice from a qualified person, as required under section 65 of the Act, has been provided;

Motions (Reg. 16)

Council decisions are made by agreement of councillors to a proposition, referred to as a motion. If a motion is successful it becomes a decision of the council. The chairperson may require a motion to be put in writing either during or following the meeting at which it was moved.

A motion cannot be debated unless it is moved by a councillor and seconded by another. However the chairperson of a council committee may waive the requirement for a motion to be seconded.

In most cases a motion will need to relate to a matter on the meeting agenda.

Notice of motion

A councillor may give written notice of a motion, and any relevant information, to the general manager for inclusion on the agenda of the next meeting, at least seven days before the meeting.

After consulting with the chairperson, the general manager may refuse to accept a written motion that is defamatory, contains offensive language or is unlawful.

The chairperson may refuse to accept a motion of which written notice has not been given, if

that motion is defamatory, contains offensive language or is unlawful.

A motion for the adjournment of debate on a motion should include the reasons for adjournment.

If the councillor does not move the motion at that meeting, the motion will lapse.

Content of motions

Meeting regulations do not specify the content or style of a motion except to prohibit certain motions.

Amendments to motions (Reg. 17)

A councillor may move a motion to amend a motion, unless that councillor has moved or seconded the original motion.

A motion to amend a motion cannot be moved while a previous motion to amend that motion is being considered.

If a motion to amend a motion is accepted, the original motion, as amended, becomes the motion before the meeting.

The chairperson may refuse to accept more than two motions to amend a motion.

Motions to overturn decisions (Reg. 18)

A council or council committee cannot overturn a decision passed at a previous meeting held since the last ordinary election, except by the resolution of an absolute majority (for council) or simple majority (for council committee).

Any advice given to a council in respect of a proposed motion to overturn a resolution is to specify if the original motion directed certain action be taken, and whether that action has been wholly or substantially carried out.

Discussions on resolved motions (Reg. 19)

The chairperson may only allow discussion regarding a previously resolved motion made earlier at the same meeting if:

- the motion was misunderstood, leading to a vote that did not accurately reflect the views of the meeting;
- new information has come to hand; or
- vital information has been overlooked

A separate vote on whether a matter should be discussed for a second time is to be taken before the discussion can take place.

Procedural motions (Reg. 20)

Procedural motions relate to matters of procedure and can be very significant to a meeting.

A procedural motion is to be moved and seconded as with any other motion, but is not to be discussed.

The chairperson is to consider a procedural motion over any other business and may accept or reject a procedural motion.

If a procedural motion is rejected, the chairperson is to give reasons why.

A councillor must not move a motion of dissent against the chairperson's decision to accept or reject a procedural motion.

If a procedural motion is accepted, the motion must be put to the vote immediately, with no discussion.

Procedural motions either in their positive or negative form include that the:

- motion be now put;
- matter be deferred;
- matter of the motion be put to a committee;
- meeting be now adjourned; or
- meeting be closed to the public

If a procedural motion is rejected or lost, discussion on the original motion is to resume.

The chairperson is not to accept any further similar procedural motions until at least one councillor has spoken to the original motion being considered.

Debate (Reg. 22)

A councillor should not digress from the subject matter of the motion and may speak to a motion only once.

A councillor is not to speak on a motion for more than five minutes, except where granted leave by the council to speak for an additional three minutes.

The mover of a motion has a right of reply for three minutes but is not to introduce any new material in the reply.

Once a motion that the motion be put is passed, there is no right of reply even if the mover has not exercised that right.

The general manager, or other council employee, may, on the invitation of the chairperson, provide further qualified advice on any agenda matter.

The council may decide to suspend the rules of debate.

Points of order (Reg. 23)

A councillor may raise a point of order for the following reasons:

- irrelevance;
- interruptions or distractions;
- a meeting procedure is contrary to the Act or the Regulations
- misrepresentation; or
- an offensive statement.

If a councillor is interrupted by the taking of a point of order, they are to cease speaking.

The chairperson is to make a ruling on a point of order as soon as it is raised. The

chairperson's ruling is binding on the meeting and is not to be questioned or challenged by a councillor.

Acting as a planning authority (Reg. 25)

The chairperson is to advise the meeting where the council or committee intends to act as planning authority under the *Land Use Planning and Approvals Act 1993*.

The general manager is to ensure that the reasons for any decision made by a council or council committee when acting as a planning authority are recorded in the minutes.

Questions without notice (Reg. 29)

A councillor at a meeting may ask a question without notice of the chairperson or, through the chairperson, of another councillor or the general manager.

A question without notice must not be debated. When putting a question without notice a councillor must not offer an argument or opinion, draw any inferences or make any imputations, except as far as necessary to explain the question.

A chairperson, councillor or general manager who is asked a question without notice may decline to answer.

Furthermore, a chairperson may refuse to accept a question if it does not relate to the activities of the council.

Questions without notice, and the answer, do not need to be recorded in the minutes of the meeting.

A chairperson may require a councillor to put a question without notice in writing.

Questions on notice (Reg. 30)

A councillor may give seven days' written notice of an intention to ask a question at the next ordinary council meeting or council committee.

An answer to a question on notice must be in writing.

Public question time (Reg. 31)

The chairperson at an ordinary council meeting must ensure that at least 15 minutes is made available so members of the public may ask questions about council activities.

Written notice of questions from a member of the public that may be addressed by the chairperson at an ordinary meeting may be given to the general manager at least seven days prior to the meeting.

Neither a member of the public's question nor its answer is to be debated.

During the 15 minutes available for public question time, a chairperson may address questions on notice submitted by the public and invite members of the public to ask questions without notice from the floor.

The chairperson may refuse to accept a question or may require the question to be put on notice in writing for answering at a later meeting. Where a question is not accepted, the chairperson is to give reasons.

Voting (Reg's 26, 27 & 28)

At a council meeting, each councillor, including the chairperson, has one vote.

At a council committee, the chairperson and a councillor who is a member of the committee has one vote.

The chairperson is to put a motion to the vote as soon as discussion on it is finished.

The question is to be put first in the affirmative and if necessary in the negative.

A motion is to be determined by a simple majority, unless an absolute majority is required.

If a councillor abstains from voting it is to be recorded as a negative vote.

Tied votes are treated as a motion being determined in the negative.

The vote of each councillor on a motion is to be recorded in the minutes.

Voting may be conducted by secret ballot if the purpose is to select a person to represent the council on a committee or other body.

Minutes

The minutes of any closed meeting are to be kept confidential unless otherwise determined by a council.

A council must consider privacy and confidentiality issues before releasing any minutes of a closed meeting.

Circulation of minutes (Reg. 32)

Minutes are to be circulated to all councillors as soon as is practical after the meeting but at least at the next ordinary meeting.

At the next ordinary meeting, the minutes are to be corrected and confirmed as a true and accurate record by resolution of the meeting and by the signature of the chairperson.

Open meetings (Reg. 32)

The general manager is responsible for recording and keeping minutes.

The general manager is to ensure copies of minutes are kept as council records, are available to all councillors, and are available for public inspection/purchase.

The general manager is to ensure the minutes of each meeting record the attendance of councillors and any:

- absence during the meeting, including the time of leaving and returning;
- matter discussed at a meeting;
- motions moved at the meeting;
- decision of a meeting and where required by the Act, whether or not the decision was by absolute majority;

- deputation made under regulation 38;
- question on notice asked by a councillor and the answer; and
- question put in writing during public question time and at least a summary of the answer.

Closed meetings (Reg. 34)

The general manager should record in the minutes of the open meeting only the fact that a matter was discussed in a closed meeting, and not include details of the outcomes, although the council may determine otherwise.

The requirements with regard to what a general manager is to record in the minutes of a closed meeting are the same as for open meetings.

Where a general manager is excluded from a closed meeting, the chairperson is to direct a person to record the minutes of that closed meeting.

Council workshops

Council workshops are informal meetings, held for the purpose of providing councillors with information on specific matters. Workshop procedure is not governed by the Act or Regulations.

The Regulations require that a meeting agenda include the date and purpose of any council workshop held since the last council meeting.

Councils and councillors need to clearly distinguish between workshops and formal council meetings. No decisions can be made or foreshadowed at council workshops. They are for information purposes only and councillor attendance at workshops is not compulsory.

Individual councils are entitled to hold workshops as and when they deem it necessary. Workshops are generally closed to the public, although a council may invite the public or individuals to attend if it wishes to do so.

Leave of absence from council meetings (Reg. 39)

A councillor, or the mayor on behalf of a councillor, may request leave of absence in respect of one or more council meetings.

A council may decide to grant a request for leave of absence, but leave must not be granted retrospectively.

The purpose of the leave and the period involved are to be recorded in the minutes.

Suspension of a councillor from meeting

The chairperson may suspend a councillor from part or all of a meeting if the councillor:

- makes a personal reflection about another councillor or council employee and refuses to apologise;
- interjects repeatedly; or
- disrupts the meeting and disobeys a call to order by the chairperson.

If a councillor does not leave the meeting after being suspended, he/she may be fined.

18/109499

Disclaimer: Information on legislation contained in this document is intended for information and general guidance only. Such information is not professional legal opinion.