

Standing Orders (Meeting Procedures) for Council Meetings

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1. PURPOSE

The purpose of the Standing Orders (meeting procedures) for Council Meetings (Standing Orders) is to provide written rules for the orderly conduct of Council Meetings in accordance with requirements under the *Local Government Act 2009* (Qld) (LGA).¹ These Standing Orders also set out:

- the process for how the Chairperson of a local government meeting may deal with unsuitable meeting conduct by a Councillor
- the process for how the Councillors at a local government meeting may deal with the unsuitable meeting conduct by the Chairperson
- the process for how a suspected conduct breach by a Councillor, that is referred to the local government by the Independent Assessor (IA), must be dealt with at a local government meeting
- the processes for dealing with a conflict of interest (COI) arising during a local government meeting and recording the COI in the minutes of the meeting
- the process for dealing with a loss of quorum due to the number of Councillors with a COI
- procedures for closing a local government meetings to the public.

It is intended that these procedures will help strengthen public confidence in local government to deal with the conduct of Councillors in meetings.

2. SCOPE

This policy applies to all meetings of the Mareeba Shire Council, other than a statutory meeting and Council's audit committee meetings.

3. POLICY STATEMENT

3.1 STANDING ORDERS

1. These Standing Orders apply to all meetings of Council and any standing committees.
2. Any provision of these Standing Orders may be suspended by resolution of any meeting of Council. A separate resolution is required for any such suspension and must specify the application and duration of each suspension.
3. Where at a Council meeting a matter arises which is not provided for in these Standing Orders, such matters shall be determined by resolution of Council upon a motion which may be put without notice but otherwise in conformity with these Standing Orders.

¹ See s 150F of the *Local Government Act 2009* (Qld).

3.2 PROCEDURES FOR MEETINGS OF COUNCIL – INCLUDING REFERRALS FROM THE INDEPENDENT ASSESSOR

3.2.1 *Presiding Officer*

1. The Mayor will preside at a meeting of Council.
2. If the Mayor is absent or unavailable to preside, the deputy Mayor will preside.
3. If both the Mayor and the deputy Mayor are absent or unavailable to preside, a Councillor chosen by the Councillors present at the meeting will preside at the meeting.
4. In specified circumstances the Mayor is delegated to give leave to a Councillor under section 162(1) of the LGA;
5. The Mayor may give approval for attendance via teleconferencing for Councillors in certain circumstances.

3.2.2 *Order of Business*

1. Before proceeding with the business of the meeting, the person presiding at the meeting shall undertake the acknowledgement and/or greetings deemed appropriate by Council.
2. The order of business shall be determined by resolution of Council from time to time. The order of business may be altered for a particular meeting where the Councillors at that meeting pass a motion to that effect. A motion to alter the order of business may be moved without notice.
3. Unless otherwise altered, the order of business shall be as follows:
 - Attendances
 - Apologies and granting of leaves of absence
 - Confirmation of Minutes
 - Officers Reports
4. The minutes of a preceding meeting whether an ordinary or a special meeting, not previously confirmed shall be taken into consideration, at every ordinary meeting of Council, in order that such minutes may be confirmed, and no discussion shall be permitted with respect to such minutes except with respect to their accuracy as a record of the proceedings.

3.2.3 *Agendas*

1. Council reports shall be made available to Councillors, if practical, two (2) days prior to meetings.
2. The agenda may contain:
 - Apologies / leave of absence / absence on Council business
 - Bereavements / condolences
 - Declaration of any material personal interests / conflicts of interest
 - Confirmation of minutes of previous meetings
 - Business arising out of minutes of previous meetings
 - Deputations and delegations
 - Mayoral minutes
 - Notified motions
 - Consideration of officers' reports to Council

- General business
 - Consideration of closed session matters
 - Notice of next meeting
3. Business not on the agenda or not fairly arising from the agenda shall not be considered at any meeting unless permission for that purpose is given by Council at such meeting.
 4. Matters considered under General Business shall only include non-substantive issues i.e., requests for a report to be prepared or leave of absence.
 5. In terms of transparency and good governance, the items that Council should be making substantive decisions about should be contained in the public agenda and as such, General Business should not allow for making of decisions on matters of public interest.

3.2.4 *Mayoral Minute*

The Mayor may move that a matter be introduced to the agenda for consideration at a meeting. This motion does not require to be seconded but requires a majority vote.

3.2.5 *Petitions*

1. Any petition presented to a meeting of Council shall:
 - be in legible writing or typewritten and contain a minimum of 10 signatures;
 - include the name and contact details of the principal petitioner (i.e., one person who is the organiser and who will act as the key contact for the issue);
 - include the postcode of all petitioners; and
 - have the details of the specific request/matter appear on each page of the petition.
2. A petition must be forwarded or handed to the CEO, who shall take reasonable steps to check the validity of the petition and include it on the agenda for the next ordinary meeting of Council. Noting that the agenda closes seven (7) days prior to a meeting.
3. A petition may be presented to a meeting of Council by a Councillor who, before presenting the petition, shall, as far as practicable, become acquainted with the subject matter of the petition. A Councillor, on presenting a petition to a meeting, shall:
 - (a) state the nature of the petition; and
 - (b) read the petition.
4. Where a Councillor presents a petition to a meeting of Council no debate on or in relation to it shall be allowed and the only motion which may be moved is that the petition be received; or received and referred to a committee or officer for consideration and a report to Council; or not be received because it is deemed invalid.
5. Council will respond to the principal petitioner in relation to all petitions deemed valid.

3.2.6 *Deputations*

1. A deputation wishing to attend and address a meeting of Council shall apply in writing to the CEO not less than seven (7) clear days before the meeting.

2. The CEO, on receiving an application for a deputation shall notify the Chairperson who shall determine whether the deputation may be heard. The CEO shall inform the deputation of the determination in writing. Where it has been determined the deputation will be heard, a convenient time shall be arranged for that purpose, and an appropriate time period allowed.
3. For deputations comprising three or more persons, only three persons shall be at liberty to address Council unless the Councillors at the meeting determine otherwise by resolution. For each deputation, a nominated spokesperson shall be appointed to address Council. A deputation shall be given adequate opportunity to explain the purpose of the deputation.
4. If a member of the deputation other than the appointed speakers interjects or attempts to address Council, the Chairperson may finalise the deputation.
5. The Chairperson may terminate an address by a person in a deputation at any time where:
 - the Chairperson is satisfied that the purpose of the deputation has been sufficiently explained to the Councillors at the meeting
 - the time period allowed for a deputation has expired, or
 - the person uses insulting or offensive language or is derogatory towards Councillors or staff members.
6. The CEO is responsible for the deputation including that the appointed speaker/s are notified in writing of developments or future actions as appropriate.

3.3 MOTIONS

3.3.1 *Motions*

1. A Councillor is required to 'move' a motion and then another Councillor is required to 'second' the motion.
2. When a motion has been moved and seconded, it shall become subject to the control of Council and shall not be withdrawn without the consent of Council.
3. If a motion is not moved and/or seconded it is deemed lost unless a procedural motion is proposed
4. Other Councillors can propose amendments to the original motion after it has been moved and seconded. The original motion must be voted on before voting on the final motion.
5. A motion brought before a meeting of Council in accordance with the LGA or these Standing Orders shall be received and put to the meeting by the Chairperson. The Chairperson may require a motion or amendment to a motion to be stated in full or be in writing before permitting it to be received.
6. The Chairperson may call the notices of motion in the order in which they appear on the agenda, and where no objection is taken to a motion being taken as a formal motion, the Chairperson may put the motion to the vote without discussion.
7. Where a Councillor wishes to propose a specific motion, this must be submitted to the CEO for inclusion in the agenda seven (7) days prior to the meeting.

3.3.2 Absence of Mover of Motion

1. Where a Councillor who has given notice of a motion is absent from the meeting of Council at which the motion is to be considered, the motion may be:
 - moved by another Councillor at the meeting; or
 - deferred to the next meeting.

3.3.3 Motion to be seconded

1. A motion or an amendment to a motion shall not be debated at a meeting of Council unless or until the motion or the amendment is seconded, with the exception of procedural motions.
2. Notwithstanding item 1, where there is no seconder, a Councillor who moves a motion or an amendment to a motion may request permission of the Chairperson to speak in support of that motion or amendment in an attempt to have the motion seconded.

3.3.4 Amendment of Motion

1. An amendment to a motion shall be in terms which maintain or further clarify the intent of the original motion and do not contradict the motion.
2. Not more than one motion or one proposed amendment to a motion may be put before a meeting of Council at any one time.
3. Where an amendment to a motion is before a meeting of Council, no other amendment to the motion shall be considered until after the first amendment has been put.
4. Where a motion is amended by another motion, the original motion shall not be put as a subsequent motion to amend that other motion.

3.3.5 Speaking to motions and amendments

1. The mover of a motion or amendment shall read it and shall state that it is so moved but shall not speak to it until it is seconded.
2. The Chairperson will manage the debate by allowing the Councillor who proposed the motion the option of speaking first on the motion. The Chairperson will then call on any other Councillor who wishes to speak against the motion and then alternatively for or against the motion as available, until all Councillors who wish to speak have had the opportunity.
3. A Councillor may make a request to the Chairperson for further information before or after the motion or amendment is seconded.
4. A motion or amendment may be withdrawn by the mover thereof with the consent of Council, which shall be signified without debate, and a Councillor shall not speak upon such motion or amendment thereof after the mover has been granted permission by Council for its withdrawal.
5. The mover of a motion or amendment shall have the right to reply. Each Councillor shall speak no more than once to the same motion or same amendment except as a right of reply.
6. Each speaker shall be restricted to not more than three (3) minutes unless the Chairperson rules otherwise.

7. Where two or more Councillors indicate they may wish to speak at the same time, the Chairperson shall determine who is entitled to priority.
8. If a decision made at a meeting is inconsistent with a recommendation or advice given to Council by an advisor of the Council, the minutes of the meeting must include a statement of the reasons for not adopting the recommendation or advice.

Where a decision is made at a meeting involving either or both of the following:

- (a) entering into a contract the total value of which is more than the greater of:
 - \$200,000 (ex GST) or;
 - 1% of the net rates and utility charges (or such other amounts as may be specified by legislation from time to time); and/or
- (b) is inconsistent with the policy or approach:
 - ordinarily followed by the local government for that type of decision or;
 - previously adopted by the local government and which is still in force

and that decision is also inconsistent with a recommendation or advice given to Council by officers, the minutes of the meeting must include a statement of the reasons for not adopting the recommendation or advice.²

3.3.6 Method of taking vote

1. A resolution is determined by a vote on a motion. A resolution is the formal adoption by Council of a position or an action.
2. Before any matter is put to the vote, the Chairperson may direct the motion or amendment to be read again. The Chairperson shall, in taking the vote on a motion or amendment, put the question, first in the affirmative and then in the negative and may do so as often as necessary to form and declare an opinion as to whether the affirmative or the negative has the majority vote.
3. Abstaining from voting is a negative vote.
4. The Chairperson has a deliberative vote and can exercise this right as a member of Council. If the votes on a matter are equal, legislation provides for the Chairperson to have a 'casting vote' to break the deadlock and bring resolution on the matter before Council.
5. Unless otherwise directed by the Chairperson, voting shall be by a show of hands.
6. Any Councillor may call for a division on a question before the Chairperson calls for a vote. If a division is taken, the minute secretary shall record the names of Councillors voting in the affirmative and of those voting in the negative. The vote for a division shall be taken by a show of hands.
7. The Chairperson will call for all Councillors in favour of the motion to indicate their support. The Chairperson will then call for all Councillors against the motion to indicate their objection. A Councillor may call for a 'division' to ensure their objection to the motion is recorded in the minutes. A call for a division must be made before the Chairperson calls for the vote. If a division is taken, the minute secretary shall record the names of Councillors voting in the affirmative and

² See *Local Government Regulation 2012* (Qld) s 254H.

of those voting in the negative. The Chairperson shall declare the result of a vote or a division as soon as it has been determined.

8. Councillors have the right to request that their names and how they voted be recorded in the minutes if they so request, for voting other than by division at the time the vote is taken.
9. Except upon a motion to repeal or amend it, the resolution shall not be discussed after the vote has been declared.
10. If a report contains distinct recommendations, the decision of Council may be taken separately on each recommendation.

3.3.7 Repealing or amending resolutions

1. A resolution of Council may not be amended or repealed unless notice of motion is given in accordance with the requirements of the LGA or the LGR.
2. Where a motion to rescind or alter a resolution is lost, a motion of the same or like effect shall not be moved until at least three (3) months after the date on which the first mentioned motion to rescind or alter was lost.
3. Councillors present at the meeting at which a motion to repeal or amend a resolution is put, may defer consideration of that motion. Such deferral shall not be longer than three months.

3.3.8 Procedural motions

1. A Councillor at a meeting of Council may, during the debate of a matter at the meeting, move, as a procedural motion, without the need for a seconder the following motions:
 - that the question/motion be now put
 - that the motion and amendment now before the meeting be adjourned
 - that the meeting proceed to the next item of business
 - that the question lie on the table
 - a point of order
 - a motion of dissent against the Chairperson's decision
 - that this report/document be tabled
 - to suspend the rule required that (insert requirements)
 - that the meeting stand adjourned
2. A procedural motion, that the question be put, may be moved and where such a procedural motion is carried, the Chairperson shall immediately put the question to the motion or amendment to that motion under consideration. Where such procedural motion is lost, debate on the motion or amendment to that motion shall continue.
3. The procedural motion, that the motion and amendment now before the meeting be adjourned, may specify a time or date, to which the debate shall be adjourned. Where no date or time is specified,
 - a further motion may be moved to specify such a time or date; or
 - the matter about which the debate is to be adjourned, shall be included in the business paper for the next meeting.

4. Where a procedural motion, that the meeting proceed to the next item is carried, debate on the matter that is the subject of the motion shall cease and may be considered again by Council on the giving of notice in accordance with the Standing Orders.
5. A procedural motion, that the question lie on the table, shall only be moved where the Chairperson or a Councillor requires additional information on the matter before the meeting (or the result of some other action of Council or person is required) before the matter may be concluded at the meeting. Where such a procedural motion is passed, the Council shall proceed with the next matter on the business paper. The motion, that the matter be taken from the table, may be moved at the meeting at which the procedural motion was carried or at any later meeting.
6. Any Councillor may ask the Chairperson to decide on a 'point of order' where it is believed that another Councillor:
 - has failed to comply with proper procedures,
 - is in contravention of the LGA/LGR, or
 - is beyond the jurisdiction power of Council.

Points of order cannot be used as a means of contradicting a statement made by the Councillor speaking. Where a 'point of order' is moved, consideration of the matter to which the motion was moved shall be suspended subject to Item 2 as outlined above. The Chairperson shall determine whether the point of order is upheld.

Upon the question of order suddenly arising during the process of a debate, a Councillor may raise a point of order, and thereupon the Councillor against whom the point of order is raised, shall immediately cease speaking. Notwithstanding anything contained in these standing orders to the contrary, all questions or order at any time arising shall, until decided, suspend the consideration and decision of every other question.

7. A Councillor may move 'a motion of dissent' in relation to a ruling of the Chairperson on a point of order. Where such motion is moved, further consideration of any matter shall be suspended until after a ruling is made. Where a motion of dissent is carried, the matter to which the ruling of the Chairperson was made shall proceed as though that ruling had not been made. Where as a result of that ruling the matter was discharged as out of order, it shall be restored to the business paper and be dealt with in the normal course of business.
8. The motion, 'that this report/document be tabled', may be used by a Councillor to introduce a report or other document to the meeting only if the report or other document is not otherwise protected under confidentiality or information privacy laws. On tabling the document, it ceases to be a confidential document and is available for public scrutiny.
9. A procedural motion, "to suspend the rule requiring that ...", may be made by any Councillor in order to permit some action that otherwise would be prevented by a procedural rule. A motion to suspend a rule shall specify the duration of such a suspension.
10. A procedural motion, that the meeting stands adjourned, may be moved by a Councillor at the conclusion of debate on any matter on the business paper or at the conclusion of a Councillor's time for speaking to the matter, and shall be put without debate. Such a procedural motion will specify a time for the resumption of the meeting and on resumption of the meeting the Council shall continue with the business before the meeting at the point where it was discontinued on the adjournment.

11. Any other procedural motion is required to be seconded.

3.3.9 Conduct during Meetings

1. Councillors will conduct themselves in accordance with the principles outlined in the LGA and the standards of behaviour set out in the *Code of Conduct for Councillors*. The Chairperson may observe or be made aware of instances of possible unsuitable meeting conduct.
2. After a meeting of Council has been formally constituted and the business commenced, a Councillor shall not enter or leave from such meeting without first notifying the Chairperson.
3. Councillors shall speak of each other during the Council meeting by their respective titles, "Mayor" or "Councillor", and in speaking of or addressing officers shall designate them by their respective official or departmental title and shall confine their remarks to the matter then under consideration.
4. No Councillor who is speaking shall be interrupted except upon a point of order being raised either by the Chairperson or by a Councillor.
5. When the Chairperson speaks during the process of a debate, the Councillor then speaking or offering to speak shall immediately cease speaking, and each Councillor present shall preserve strict silence so that the Chairperson may be heard without interruption.
6. Councillors shall ensure there is no audible noise from mobile devices during a formally constituted meeting except with permission of the Chairperson.
7. Councillors may sit or stand and address the Chairperson while moving any motion or amendment, seconding any motion or amendment, or taking part in any discussion, placing, or replying to any question, or addressing the Council for any other purpose.
8. Councillors shall remain seated and silent while a vote is being taken.
9. No Councillor shall make personal reflections on or impute improper motives to any other Councillor.

3.4 QUESTIONS

1. A Councillor may at a Council meeting ask a question for reply by another Councillor or an officer regarding any matter under consideration at the meeting. A question shall be asked categorically and without argument and no discussion shall be permitted at the meeting of Council in relation to a reply or a refusal to reply to the question. A Councillor or officer to whom a question is asked without notice may request that the question be taken on notice for the next meeting.
2. A Councillor who asks a question at a meeting, whether or not upon notice, shall be deemed not to have spoken to the debate of the motion to which the question relates.
3. The Chairperson may disallow a question which is considered inconsistent with an acceptable request or good order, provided that a Councillor may move a motion that the Chairperson's ruling be disagreed with, and if such motion be carried the Chairperson shall allow such question.

3.5 MAINTENANCE OF GOOD ORDER

3.5.1 *Disorder*

1. The Chairperson may adjourn the meeting of Council, where disorder arises at a meeting other than by a Councillor. On resumption of the meeting, the Chairperson shall move a motion, which shall be put without debate, to determine whether the meeting shall proceed. Where such a motion is lost, the Chairperson shall declare the meeting closed, and any outstanding matters referred to a future meeting.

3.5.2 *Business of Objectionable nature*

1. If, at a meeting of Council, the Chairperson or a Councillor considers that a matter or motion before a meeting is of an objectionable nature or outside the powers of Council, the Chairperson or another Councillor may move a motion to declare a point of order that the matter not be considered further.

3.6 ATTENDANCE AND NON-ATTENDANCE

3.6.1 *Attendance of public and the media at meeting*

1. An area shall be made available at the place where any meeting of Council is to take place for members of the public and representatives of the media to attend the meeting and as many members of the public as reasonably can be accommodated in that area shall be permitted to attend the meeting.
2. When the Council is sitting in closed session, the public and representatives of the media shall be excluded.
3. The resolution that Council proceed into closed session must specify the nature of the matters to be considered and these matters must be in accordance with requirements under the LGR.³ The Chairperson may direct any persons improperly present to withdraw immediately. Council must not make a resolution (other than a procedural resolution) in a closed session. Council must resolve to move out of closed session so that a resolution can be passed on the matters considered in closed session.

3.6.2 *Public Participation at meetings*

1. A member of the public may take part in the proceeding of a meeting only when invited to do so by the Chairperson.
2. In each meeting, time may be required to permit members of the public to address the Council on matters of public interest related to local government. The time allotted shall not exceed fifteen minutes and no more than three speakers shall be permitted to speak at any one meeting. The right of any individual to address the Council during this period shall be at the absolute discretion of Council.
3. If any address or comment is irrelevant, offensive, or unduly long, the Chairperson may require the person to cease making the submission or comment.

³ See *Local Government Regulation 2012* (Qld) s 254J.

4. For any matter arising from such an address, Council may take the following actions:
 - refer the matter to a committee
 - deal with the matter immediately
 - place the matter on notice for discussion at a future meeting
 - note the matter and take no further action.
5. During a debate on a motion, the Chairperson may invite submission, comments, or questions from members of the public.
6. Any person addressing the Council shall stand and act and speak with decorum and frame any remarks in respectful and courteous language.
7. Any person who is considered by the Council or the Mayor to be unsuitably dressed may be directed by the Mayor or Chairperson to immediately withdraw from the meeting. Failure to comply with such a request may be considered an act of disorder.
8. Any person who is considered by the Council or the Mayor to be conducting themselves in an unsuitable manner, may be directed by the Mayor or Chairperson to immediately withdraw from the meeting. Should any person fail to adhere to this direction, they may be forcibly removed from the premises.
9. Audio and/or video recording of a Council meeting by a member of the public is not permitted unless approved by the Chairperson.

3.7 PROCESS FOR DEALING WITH UNSUITABLE MEETING CONDUCT BY A COUNCILLOR IN A MEETING

While Councillors generally will conduct themselves in accordance with the principles of the LGA, the Chairperson may observe or be made aware of instances of possible unsuitable meeting conduct. The conduct of a Councillor is unsuitable meeting conduct if the conduct happens during a Council meeting and contravenes a behavioural standard of the *Code of Conduct for Councillors*. When dealing with an instance of unsuitable meeting conduct by a Councillor, the following procedures must be followed:

1. The Chairperson must decide whether or not unsuitable meeting conduct has been displayed by a Councillor.
2. If the Chairperson decides the unsuitable meeting conduct has occurred, the Chairperson may consider the severity of the conduct and whether the Councillor has had any previous warnings for unsuitable meeting conduct issued. If the Chairperson decides the conduct is of a serious nature or another warning is unwarranted, refer to section 3.7, item 7 for the steps to be taken.
3. If the Chairperson decides unsuitable meeting conduct has occurred but is of a less serious nature, the Chairperson may request the Councillor take remedial actions such as:
 - Ceasing the unsuitable meeting conduct and refraining from exhibiting the conduct
 - Apologising for their conduct
 - Withdrawing their comments.
4. If the Councillor complies with the Chairperson's request for remedial action, no further action is required.

5. If the Councillor fails to comply with the Chairperson's request for remedial action, the Councillor may warn the Councillor that failing to comply with the request may result in an order being issued.
6. If the Councillor complies with the Chairperson's warning and request for remedial action, no further action is required.
7. If the Councillor continues to fail to comply with the Chairperson's request for remedial action or the Chairperson decided a warning was not appropriate under section 3.7, item 3, the Chairperson may make one or more of the orders below:
 - an order reprimanding the Councillor for the conduct
 - an order requiring the Councillor to leave the meeting, including any area set aside for the public and stay out for the duration of the meeting.
8. If the Councillor fails to comply with an order to leave and stay away from the meeting, the Chairperson can issue an order that the Councillor be removed from the meeting.
9. Following the completion of the meeting, the Chairperson must ensure:
 - (a) details of any order issued is recorded in the minutes of the meeting;
 - (b) if it is the third (3rd) or more order made within a 12-month period made against a Councillor or the Councillor has refused to comply with an order issued to leave the meeting, these matters are to be dealt with at the next meeting of the Council as a suspected conduct breach;
 - (c) the Council's Chief Executive Officer is advised to ensure details of any order made is updated in the Council's Councillor Conduct Register.
10. Any Councillor aggrieved with an order issued by the Chairperson can move a motion of dissent for parts 1, 7 and 8 above.

3.8 PROCESS FOR DEALING WITH UNSUITABLE MEETING CONDUCT BY A CHAIRPERSON IN A MEETING

1. If a Councillor at the meeting reasonably believes that the conduct of the Chairperson during the meeting is unsuitable meeting conduct, the Councillor will raise the matter in the meeting by point of order.
2. The Chairperson may correct their unsuitable meeting conduct or if they do not properly correct their behaviour, the Councillor may move a motion that the Councillor has engaged in unsuitable meeting conduct (a seconder for the motion is required). Councillors present, excluding the Chairperson, must decide by resolution if the conduct is unsuitable meeting conduct.
3. The Chairperson has a declarable conflict of interest in the matter and must leave the place where the meeting is being held, including any area set aside for the public, during the debate and vote on the matter. If the Chairperson wishes to remain in the meeting, the eligible Councillors must make a decision and follow the procedures set out in 3.11 below.
4. For the debate and vote on the motion, a Councillor other than the Councillor that moved the motion, is to act as the Chairperson.

5. If the original Chairperson remains in the meeting, on the condition that they will not vote on the matter as determined by the eligible Councillors, they can put forward their reasoning about their conduct, and respond to questions through the Chairperson from the eligible Councillors.
6. The acting Chairperson of the meeting will preside over the meeting while the Councillors present at the meeting vote on whether the Chairperson has engaged in unsuitable meeting conduct (the acting Chairperson will have a casting vote on the resolution if required).
7. If it is decided that the Chairperson has engaged in unsuitable meeting conduct the Councillors can make an order reprimanding the Chairperson for the conduct.
8. Once the Councillors make a decision, the Chairperson returns to the meeting (unless they have been permitted to remain in the meeting) and is informed of the decision by the acting Chairperson.
9. The Chairperson then resumes the role of Chairperson, and the meeting continues.
10. Details of any reprimand order is recorded in the minutes of the meeting. Council's CEO will ensure details of any order made is updated in Council's Councillor Conduct Register.

3.9 MEETING PROCEDURES FOR DEALING WITH A SUSPECTED CONDUCT BREACH INCLUDING THAT WHICH HAS BEEN REFERRED TO A LOCAL GOVERNMENT BY THE INDEPENDENT ASSESSOR

Pursuant to requirements under the LGA (Referral of conduct to local government)⁴ a referral from the IA of a conduct breach or an instance of suspected conduct breach may arise from circumstances under section 3.7, item 9 of these Standing Orders. In relation to matters referred by the IA to Council, Council may decide not to start or discontinue an investigation if the complainant withdraws the complaint, or consents to the investigation not starting or discontinuing, or the complainant does not provide extra information when requested, or there is insufficient information to investigate the complaint, or the Councillor vacates or has vacated their office as a Councillor.

An investigation into the alleged conduct must be:

- consistent with any recommendations from the IA; and
- consistent with Council's *Investigation Policy*; or
- in another way decided by resolution of Council.

After the completion of the investigation, the Council must decide in a council meeting, whether the Councillor has engaged in a conduct breach, unless it has delegated responsibility for this decision under section 257 of the LGA.

When dealing with an instance of suspected conduct breach which has been referred to Council by the IA:

1. Council must be consistent with the local government principle of transparent and accountable decision making in the public interest by deciding the outcome of an investigation of with a suspected conduct breach in an open meeting of the Council. However, where the matter requires debate, the Council may close all or part of a meeting to the public under section 254J of the LGR if considered necessary, to discuss an investigation report.

⁴ See *Local Government Act 2009* (Qld) Chapter 5A, Part 3, Division 5.

2. No resolution for a decision can be made in the closed session. The matter must be decided in an open session of the meeting or at a later meeting.
3. Where Council makes a decision about a conduct breach matter at a Council meeting that is inconsistent with a recommendation made about that matter in an investigation report, a statement of the reasons for the inconsistency must be included in the minutes of the meeting.⁵
4. The subject Councillor has a declarable COI in the matter and is permitted by the Council to remain in the closed meeting (unless Council decides otherwise) during the debate about the investigation report and answer questions put to the subject Councillor through the Chairperson in relation to the evidence or written submission provided by the Councillor to the Council. The permission to remain in the meeting for the debate is on the condition that the subject Councillor must leave the place where the meeting is being held, including any area set aside for the public, during the vote on whether they have engaged in a conduct breach and what, if any, penalty to impose if the Councillor is found to have engaged in a conduct breach.
5. Should the complainant be a Councillor, that Councillor may have a declarable COI in the matter and if so, must follow the declarable COI procedures in Section 3.11. If the complainant Councillor who has a COI, wishes to remain in the meeting during the debate and vote on the matter, the other eligible Councillors (who do not have a COI in the matter) must decide how to deal with the COI under section 3.11. The complainant Councillor can be ordered to leave the meeting place or conditions may be applied to allow that Councillor to participate in either the debate, the vote or the decision on any disciplinary action to be applied.
6. After making a decision under section 150AG of the LGA, the local government must make the full investigation report, publicly available within 10 business days after the decision is made, with redactions of the name of the complainant and any witnesses but including the name of a Councillor or the CEO of the local government if they were complainants, or any Councillor who declared a COI in the matter.
7. If Council has lost quorum due to the number of conflicted Councillors or another reason, the matter must be delegated consistent with section 257 of the LGA or decided by resolution to defer the matter to a later meeting.
8. If a decision is reached that the subject Councillor has engaged in a conduct breach, then the Councillors must decide what penalty or penalties from the orders detailed in 3.8(6), if any, to impose on the Councillor. In deciding what penalty to impose, Council may consider any previous unsuitable meeting conduct of the Councillor and any allegation made in the investigation that was admitted, or not challenged, and that the Council is reasonably satisfied is true.
9. Council may order that no action be taken against the Councillor or make one or more of the following:
 - a) an order that the Councillor make a public apology in a way decided by Council
 - b) an order reprimanding the Councillor for the conduct breach
 - c) an order that the Councillor attend training or counselling to address the Councillor's conduct, including at the Councillor's expense
 - d) an order that the Councillor be excluded from a stated Council meeting

⁵ See *Local Government Regulation 2012* (Qld) ss 254H(2)-(3).

- e) an order that the Councillor is removed, or must resign, from a position representing the local government, other than the office of Councillor, for example that the Councillor is ordered to resign from an appointment representing the local government on a state board or committee
 - f) an order that if the Councillor engages in the same type of conduct again, it will be treated as misconduct
 - g) an order that the Councillor reimburse the local government for all or some of the costs arising from the Councillor's conduct breach.
10. A local government may not make an order in relation to a person who has vacated their office as a Councillor.
 11. The subject Councillor, and where relevant, the complainant Councillor, must be invited back into the place where the meeting is being held once a decision has been made, and the Chairperson must advise them of the details of the decision made by the Council and if relevant, any orders made by resolution.
 12. The minutes of the meeting must reflect the decision and any orders made. A notice must be given to the IA as soon as practicable about the decision and the reasons for the decision and if an order is made under section 150AH of the LGA, the details of the order.

3.10 PRESCRIBED CONFLICT OF INTEREST

Councillors are ultimately responsible for informing of any prescribed COI on matters to be discussed at a council meeting, standing or advisory committee meeting (other than ordinary business matters). When dealing with a prescribed COI, Councillors must abide by the following procedures:

1. A Councillor who has notified the chief executive officer of a prescribed COI in a matter to be discussed in a council meeting must also give notice during the meeting.
2. A Councillor who first becomes aware of a prescribed COI in a matter during a council meeting must immediately inform the meeting of the COI.
3. When notifying the meeting of a prescribed COI, the following details must, at a minimum, be provided:
 - if it arises because of a gift, loan or contract, the value of the gift, loan, or contract
 - if it arises because of an application or submission, the subject of the application or submission
 - the name of any entity, other than the Councillor, that has an interest in the matter
 - the nature of the Councillor's relationship with the entity that has an interest in a matter
 - details of the Councillor's and any other entity's interest in the matter.
4. The Councillor must then leave the place of the meeting, including any area set aside for the public, and stay away while the matter is being discussed and voted on, unless the subject Councillor has written notice from the Minister to participate in the matter.
5. Once the Councillor has left the area where the meeting is being conducted, the Council can continue discussing and deciding on the matter at hand.

3.11 DECLARABLE CONFLICT OF INTEREST

Councillors are ultimately responsible for informing of any declarable COI on matters to be discussed at council meetings, standing or advisory committee meetings that might lead to a decision that is contrary to the public interest (other than ordinary business matters).

A Councillor may raise their personal interests in a matter at the meeting to canvas the view of the other Councillors prior to deciding to declare a COI. If the other Councillors suspect the personal interest might be a COI, the Councillor may disclose their suspicion and the processes under section 150EW of the LGA applies.

When dealing with a declarable COI, Councillors must abide by the following procedures:

1. A Councillor who has notified the chief executive officer of a declarable COI in a matter to be discussed at a council meeting must also give notice during the meeting.
2. A Councillor who first becomes aware of a declarable COI in a matter during a council meeting must inform the meeting of the COI.
3. When notifying the meeting of a declarable COI, Councillors should provide sufficient detail to allow the other Councillors to make an informed decision about how best to manage the declarable COI in the public interest. The following minimum details must be provided:
 - the nature of the declarable COI
 - if it arises because of the Councillor's relationship with a related party:
 - the name of the related party to the Councillor
 - the nature of the relationship of the related party to the Councillor
 - the nature of the related party's interest in the matter
 - if it arises because of a gift or loan from another person to the Councillor or a related party:
 - the name of the other person
 - the nature of the relationship of the other person to the Councillor or related party
 - the nature of the other person's interest in the matter
 - the value of the gift or loan and the date the gift or loan was made.
4. After a Councillor has declared a COI, the Councillor should consider leaving the meeting while the matter is discussed unless they have reasons why their participation would improve making the decision in the public interest.
5. If the Councillor chooses not to leave the meeting, the Councillor may advise the other Councillors of their reasons for seeking permission to participate in making the decision.
6. The other eligible Councillors at the meeting must then decide, by resolution, whether the Councillor can participate in the decision making in relation to the matter, including voting on the matter, or whether they should not participate in the decision and leave the place of the meeting while the matter is decided by the non-conflicted Councillors. The non-conflicted Councillors may impose conditions on the Councillor under a decision to either participate or leave the meeting e.g., may stay for the debate but must leave for the vote. The Councillor must comply with any decision or condition imposed by the non-conflicted Councillors unless authorised under an approval by the Minister for local government. The Councillor must not participate in the decision unless authorised in compliance with section 150ES of the LGA or under an approval by the minister for local government under section 150EV of the LGA.
7. In deciding on whether a Councillor may participate in a decision about a matter in which the Councillor has a declarable COI, only Councillors who do not themselves have a prescribed or declarable COI in the matter are eligible to participate in the decision making. The decision may be made even if the number of those Councillors is less than a majority or less than a quorum for the meeting consistent with section 150ET of the LGA.

8. The Councillor who is the subject of the decision may remain in the meeting while the debate is occurring and can participate by answering questions from the Chairperson to assist the other Councillors in making their decision. The subject Councillor must not vote or otherwise participate in making the decision but may remain in the meeting while the vote on the matter takes place and the decision is declared by the Chairperson, on whether the Councillor may remain in the meeting and participate in deciding the matter in which the Councillor has a declarable COI.
9. When deciding whether a Councillor may participate in the decision making on a matter in which they have a declarable COI, the other Councillors should consider the circumstances of the matter including, but not limited to:
 - how does the inclusion of the Councillor in the deliberation affect the public trust
 - how close or remote is the Councillor's relationship to the related party
 - if the declarable COI relates to a gift or other benefit, how long ago was the gift or benefit received
 - will the benefit or detriment the subject Councillor or their related party stands to receive from the decision have major or minor impact on them
 - how does the benefit or detriment the subject Councillor stands to receive compared to others in the community
 - how does this compare with similar matters that Council has decided and have other Councillors with the same or similar interests decided to leave the meeting
 - whether the subject Councillor has unique skills, knowledge or expertise that might help make the best decision in the public interest.
10. If the eligible Councillors cannot decide about the declarable COI of a Councillor, they are taken to have decided that the Councillor must leave and stay away from the meeting while the eligible Councillors discuss and vote on the matter.
11. A decision about a Councillor who has a declarable COI in a matter applies in relation to the Councillor for participating in the decision, and subsequent decisions, about the same matter unless there is a change to the Councillor's personal interests and/or the nature of the matter being discussed. If the eligible Councillors decide that the Councillor can act in the public interest on the matter, then the Councillor may participate in the meeting and be involved in processes occurring outside of a council meeting about the same matter e.g., briefing sessions or workshops.
12. In making the decision about the Councillor's COI in a matter, it is irrelevant how the subject Councillor intended to vote on the issue or any other issue (if known or suspected).
13. A Councillor does not contravene the above procedures if the Councillor participates in a decision under written approval from the Minister.⁶

3.12 REPORTING A SUSPECTED CONFLICT OF INTEREST

1. If a Councillor at a meeting reasonably believes or suspects that another Councillor has a personal interest in a matter that may be a prescribed or declarable COI, and that Councillor is participating in a decision on that matter, the Councillor must immediately inform the Chairperson of the meeting of their belief or suspicion, and the facts and circumstances that led to their belief or suspicion.

⁶ See *Local Government Act 2009* (Qld) s 150EV.

2. The Chairperson should ask the relevant Councillor with the suspected personal interest whether they have any prescribed or declarable COI in the matter. If the Councillor agrees they have a COI, the Councillor must follow the relevant procedures above.
3. If the Councillor believes they do not have a COI, they must inform the meeting of that belief and their reasons for that belief.
4. The non-conflicted Councillors must then decide whether the Councillor has a prescribed COI, a declarable COI or that the Councillor does not have a prescribed or declarable COI in the matter. If the meeting decides the Councillor has a COI, the Councillor must follow the relevant procedures above.
5. If the Councillors cannot reach a majority decision, then they are taken to have determined that the Councillor has a declarable COI.
6. If the belief or suspicion of a COI relates to more than one Councillor. The parts 3.11(1) to 3.11(8) of these procedures must be complied with in relation to each Councillor separately.

3.13 LOSS OF QUORUM

1. In the event where one or more Councillors leave a meeting due to a prescribed or declarable COI in a matter that results in a loss of a quorum for deciding the matter, the Council must resolve to:
 - delegate the consideration and decision on the matter, pursuant and subject to restrictions under section 257 of the LGA; or
 - defer the matter to a later meeting; or
 - not to decide the matter and take no further action in relation to the matter unless the LGA or another Act provides that the local government must decide the matter.

All Councillors including the conflicted Councillors, may participate in deciding to delegate or defer a matter.

2. Council must not delegate a decision to an entity if the entity, or a majority being at least half of its members, has a prescribed or declarable COI in the matter.
3. If the matter cannot be delegated under an Act, Council should seek ministerial approval for the Councillors to be able to consider and vote on the matter, subject to any conditions the Minister for Local Government may impose.⁷

3.14 RECORDING PRESCRIBED AND DECLARABLE CONFLICTS OF INTEREST

When a Councillor informs a meeting that they or another Councillor have a prescribed or declarable COI in a matter, the minutes of the meeting must record all of the relevant details of how the COI was dealt with, being:⁸

- the name of any Councillor and any other Councillor who may have a prescribed or declarable COI
- the particulars of the prescribed or declarable COI provided by the Councillor

⁷ See *Local Government Act 2009* (Qld) s 257(3) – restriction on delegation of a power which must be decided by resolution of Council. See also s 257 generally. See also s 150AG – restriction on delegation of power to make a decision on Councillor conduct.

⁸ *Ibid* s 150FA.

- the actions taken by a Councillor after informing the meeting that they have, or they reasonably suspect another Councillor has a prescribed or declarable COI
- any decision then made by the eligible Councillors
- whether the Councillor with a prescribed or declarable COI participated in or was present for the decision under ministerial approval
- the Council's decision on what actions the Councillor with a declarable COI must take and the reasons for the decision
- the name of each Councillor who voted on the matter and how each voted

If the Councillor has a declarable COI the following additional information must be recorded in the minutes of the meeting when the meeting is informed of a Councillor's personal interest by someone other than the Councillor:

- the name of each Councillor who voted in relation to whether the Councillor has a declarable COI, and how each of the Councillors voted

where a decision has been made under section 3.9, Item 9 above – the minutes must include:

- the decision and reasons for the decision, and the name of each eligible Councillor who voted and how each eligible Councillor voted

3.15 CLOSED MEETINGS

Council meetings, standing and advisory committee meetings may resolve that a meeting be closed to the public if its Councillors consider it necessary to discuss any of the following matters:⁹

- Appointment, dismissal, or discipline of the CEO
- Industrial matters affecting employees
- The Council's budget
- Rating concessions
- Legal advice obtained by the Council, including legal proceedings that may be taken by or against the Council
- Matters that may directly affect the health and safety of an individual or a group of individuals
- negotiations relating to a commercial matter involving the Council for which a public discussion could prejudice the interests of the Council
- negotiations relating to the taking of land by the Council under the *Acquisition of Land Act 1967* (Qld)
- a matter that the Council is required to keep confidential under a law of, or a formal agreement with, the Commonwealth or State.
- A matter relating to the consideration of an investigation report for an investigation of a conduct breach given to the local government under the LGA Chapter 5A, Part 3, Division 5.

A council meeting, standing and advisory committee meeting cannot resolve that a meeting be closed where the meeting is informed of a Councillor's personal interest in the matter by another person and the eligible Councillors at the meeting must decide whether the Councillor has a declarable COI in the matter.

⁹ Ibid s 254J(3).

Further, the meeting must not be closed if a quorum is lost due to the number of conflicted Councillors who leave the meeting, and the Council must;

- delegate the matter
- decide by resolution to defer the matter to a later meeting
- decide by resolution to take no further action on the matter.

None of the above will be considered, discussed, voted on or made during a closed session.

If a closed session includes attendance by teleconference, the Councillor/s attending by teleconference must maintain confidentiality by ensuring no other person can hear their conversation while in the closed meeting.¹⁰

To take a matter into a closed session the Council must abide by the following:

1. Pass a resolution to close the meeting.
2. The resolution must state the matter to be discussed, an overview of what is to be discussed and why the meeting should be closed while the matter is considered.
3. If the matter is known in advance, the agenda should clearly identify that the matter may be considered in closed session, and an explanation of why the Councillors at the meeting may consider it necessary to take the issue into closed session must be stated.
4. Not make a resolution while in a closed meeting (other than a procedural resolution).

3.16 TELECONFERENCING MEETINGS

1. If a Councillor wishes to be absent from a council meeting place during a meeting, the Councillor must apply to the Chairperson to participate by teleconference, at least three business days prior to the meeting or as soon as practicable once the Councillor becomes aware of their intended absence. The Chairperson may allow a Councillor to participate in a council meeting, standing or advisory committee meeting by teleconference.
2. A Councillor taking part by teleconference is taken to be present at the meeting if the Councillor was simultaneously in audio contact with each other person at the meeting. The attendance of the Councillor must be recorded in the minutes as present at the meeting.

Note: Teleconferencing includes the use of a telephone, video conferencing equipment or other means of instant communication that allows a person to take part in a discussion as it happens.

3.17 AMENDMENT OF STANDING ORDERS

Standing Orders are a Council policy and can be amended by resolution of Council at any time.

¹⁰ Ibid s 171(3) – contravention provision.

4. REPORTING

No additional reporting is required.

5. DEFINITIONS

Advisor – holds the meaning declared in section 254(H)(4) of the LGR

Conduct – holds the meaning declared in section 150C of the LGA

Conduct breach – holds the meaning declared in section 150K of the LGA

Council – means the Mareeba Shire Council

IA – means the Independent Assessor as appointed under section 150CV of the LGA

LGA – means the *Local Government Act 2009* (Qld)

local government (or **Council** meeting) – holds the meaning declared in Schedule 8 of the LGR

LGR – means the *Local Government Regulation 2012* (Qld)

misconduct – holds the meaning declared in section 150L of the LGA

unsuitable meeting conduct – holds the meaning declared in section 150H of the LGA

6. RELATED DOCUMENTS AND REFERENCES

Code of Conduct for Councillors (MSC)

Councillor Conduct Register (MSC)

Investigation Policy (MSC)

Local Government Act 2009 (Qld)

Local Government Regulation 2012 (Qld)

7. REVIEW

It is the responsibility of the Manager Development and Governance to monitor the adequacy of this policy and implement and approve appropriate changes. This policy will be formally reviewed every four (4) years or as required by Council.