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- (4) The notice and agenda must be kept on public display, and continue to be published on the website, under subsection (1a) until the completion of the relevant meeting.
 - (5) The chief executive officer must also ensure that a reasonable number of copies of any document or report supplied to members of a council committee for consideration at a meeting of the committee are available for inspection by members of the public at the principal office of the council as soon as practicable after the time when the document or report is supplied to members of the committee.
 - (6) However, subsection (5) does not apply to a document or record—
 - (a) that is subject to the operation of section 87(10); or
 - (b) that relates to a matter dealt with by the council or council committee on a confidential basis under Part 3.
 - (7) The regulations may modify the application of this section for council committees that are not performing regulatory activities of councils.

89—Proceedings of council committees

- (1) Subject to this Act, the procedure to be observed in relation to the conduct of meetings of a council committee will be—
 - (a) as prescribed by regulation;
 - (b) insofar as the procedure is not prescribed by regulation—as determined by the council;
 - (c) insofar as the procedure is not prescribed by regulation or determined by the council—as determined by the council committee itself.
- (2) A meeting of a council committee may be adjourned from time to time and from place to place.

Part 3—Public access to council and committee meetings

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—
 - (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 Development Plan Amendment proposal 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

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- (b) cause a loss of confidence in the council or council committee; or
 - (c) involve discussion of a matter that is controversial within the council area; or
 - (d) make the council susceptible to adverse criticism.
- (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 specifying—
- (a) the grounds on which the order was made; and
 - (b) the basis on which the information or matter to which the order relates falls within the ambit of each ground on which the order was made; and
 - (c) if relevant, the reasons that receipt, consideration or discussion of the information or matter in a meeting open to the public would be contrary to the public interest.
- (7a) A council committee meeting will be taken to be conducted in a place open to the public for the purposes of this section even if 1 or more committee members participate in the meeting by telephone or other electronic means in accordance with any procedures prescribed by the regulations or determined by the council under section 89 (provided that members of the public can hear the discussion between all committee members and subject to the qualification that a council may direct a committee not to use telephone or other electronic means for the purposes of its meetings).
- (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.

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.
- (8a) In addition, an informal gathering or discussion under subsection (8) may only be held if—
 - (a) the council has adopted a policy on the holding of informal gatherings or discussions; and
 - (b) the informal gathering or discussion complies with the policy.
- (8b) A policy adopted under subsection (8a) must comply with any requirements prescribed by the regulations, and the regulations may (for example) include requirements that the policy provide for—
 - (a) the imposition of limitations on the holding of informal gatherings or discussions; and
 - (b) procedures for approval of informal gatherings or discussions; and
 - (c) the capacity of the council to impose conditions on an approval.
- (8c) A council may from time to time alter its policy, or substitute a new policy.
- (8d) The council must ensure that a copy of the policy under subsection (8a) is available for inspection (without charge) at the principal office of the council during ordinary office hours and on a website determined by the chief executive officer.
- (8e) A person is entitled, on payment of a fee fixed by the council, to a copy of a policy under subsection (8a).
- (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.

Part 4—Minutes of council and committee meetings and release of documents

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.

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- (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
 - (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

- (ab) in the case of an order of specified duration—
 - (i) the duration of the order cannot be extended after the order has ceased to apply (as a result of the expiry of the period for which the order was specified to apply); and
 - (ii) an order extending the duration of such an order cannot be delegated by the relevant council or council committee; 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.

Part 5—Code of practice

92—Access to meetings and documents—code of practice

- (1) A council must prepare and adopt a code of practice relating to the principles, policies, procedures and practices that the council will apply for the purposes of the operation of Parts 3 and 4.
- (2) A council must, within 12 months after the conclusion of each periodic election, review the operation of its code of practice under this section.
- (3) A council may at any time alter its code of practice, or substitute a new code of practice.
- (4) A code of practice must include any mandatory provision prescribed by the regulations.
- (5) Before a council adopts, alters or substitutes a code of practice under this section it must—
 - (a) make copies of the proposed code, alterations or substitute code (as the case may be) available for inspection or purchase at the council's principal office and available for inspection on a website determined by the chief executive officer; and
 - (b) follow the relevant steps set out in its public consultation policy.
- (6) A person is entitled to inspect (without charge) the code of practice of a council at the principal office of the council during ordinary office hours.