	Function: GOVERNANCE	Adopted: 3 rd June 2009 Resolution No.: C122:09
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	Version Number: 10	Next Review: Refer Clause 10
CODE OF PRACTICE - ACCESS TO MEETINGS AND DOCUMENTS		

Policy Statement

1. Introduction

- 1.1. Copper Coast Council (Council) supports the principle that procedures to be observed at a meeting of a Council or a Council committee should contribute to open, transparent, and informed decision-making and encourage appropriate community participation in the affairs of the Council.
- 1.2. Council has identified that in the broader community interest, specific situations may cause need to restrict public access to discussions, decisions and documents.
- 1.3. Section 92 of the Local Government Act 1999 (the Act) refers to the mandatory requirement a Council must have a Code of Practice for Access to Meetings and Documents (the Code of Practice).

2. Scope

- 2.1. Public access to Council or a Council committee meeting and documents is one of the primary means by which the community can gain access to information about the business of Council and Council committees.
- 2.2. Council can apply confidentiality provisions in accordance with the Local Government Act 1999 and Local Government (General) Regulations 2013.
- 2.3. The Code of Practice includes information relating to:
 - access to the meeting documents (notice of meeting, agenda and reports);
 - public access to attend meetings;
 - matters where the public may be excluded and the process to do so;
 - use of the confidentiality provisions in the Local Government Act;
 - review of confidentiality orders;
 - accountability and reporting to the community, and
 - the availability of the Code of Practice.

3. Applicable Legislation

- 3.1. The following legislation applies to this Code of Conduct:
 - Local Government Act 1999
 - Local Government (General) Regulations 2013
 - Public Interest Disclosure Act 2020
 - Freedom of Information Act 1991
- 3.2. This Code of Conduct is a mandatory requirement and supports good governance.

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4. Integration with Corporate Objectives

4.1. This Code of Conduct supports Council's Strategic Plan 2019 - 2029

4.1.1. Governance Objective – Leadership

Goal 5 – To provide leadership and ensure community resources are managed efficiently and effectively.

5.3 Legislation – To adhere to the requirements of the Local Government Act 1999, regulations and other legislation that influences the operations of Council.

5. Related Council Policies and Documents

5.1. This Code of Practice is designed to operate in conjunction with other Council policies, including but not limited to:

- Code of Practice - Meeting Procedures
- Public Interest Disclosure Policy
- Fraud and Corruption, Misconduct and Maladministration Policy.

6. Definitions

For the purposes of the Code of Practice, all terms and references are as defined in the Local Government Act 1999 and in addition, the following definitions apply:

- 6.1. **Chief Executive Officer (CEO)** means the appointed Chief Executive Officer under Section 96 of the Local Government Act 1999 and includes any person acting or delegated by the Chief Executive Officer's under Sections 100 and 101 of the Local Government Act 1999.
- 6.2. **Clear days** means that the full twenty-four (24) hour period between the giving of the notice and the day of the meeting, and excludes the day on which the notice was given and the day of the meeting. (E.g. Notice is given on a Thursday for a meeting on the following Monday, the clear days are Friday, Saturday and Sunday).
- 6.3. **Connect** means to commence and continue to hear and see the meeting through live streaming of the meeting.
- 6.4. **Council** means the Copper Coast Council and any delegate of the Council.
- 6.5. **Disconnect** means removes the connection to be unable to hear and see the meeting through live streaming the meeting.
- 6.6. **Live Stream** means the transmission of audio and video from a meeting at the time that the meeting is occurring.
- 6.7. **Minutes** means an official written record of the proceedings at a meeting of the Council or a Council committee.

7. Application

- 7.1. The Code of Practice - Access to Meetings and Documents applies to Council and Committee meetings (including Information or Briefing Sessions) and should be read in conjunction with Council's Code of Practice - Meeting Procedures.
- 7.2. Notification of Council and Council Committee Meetings
- 7.2.1. In accordance with Sections 84 and 88 of the Act, the Chief Executive Officer must provide, at minimum, the prescribed advance notice of Council and Council committee meetings.

- 7.2.2. The Chief Executive Officer will provide:
- 7.2.2.1. Advance notice to the public of Council and Council committee meetings (unless it is a special meeting) by including the meeting schedule in the quarterly Council Newsletter and on Council's website www.coppercoast.sa.gov.au;
 - 7.2.2.2. Notice to the public of Council and Council committee meetings (unless it is a special meeting) by placing a public notice in the local paper no less than a minimum of seven (7) days prior to the meeting.
- 7.2.3. The Chief Executive Officer must give written notice of a meeting to all members, at least three (3) clear days prior to the Council or Council committee meeting (unless it is a special meeting) setting out the date, time, and place of the meeting. The notice of meeting must contain or be accompanied by, the agenda for the meeting.
- 7.2.4. In accordance with Section 132(1)(a) of the Act, the Chief Executive Officer will make available to the public, the Notice of meeting, a minimum of three (3) clear days prior to the meeting:
- 7.2.4.1. At Council's principal office (51 Taylor Street, Kadina SA 5554), where it will remain on display until the completion of the meeting;
 - 7.2.4.2. On Council's website www.coppercoast.sa.gov.au and be retained indefinitely.
- 7.2.5. Section 84(2a) of the Act, allows the Chief Executive Officer to provide the notice of a meeting to the public in additional ways, having regard to the characteristics of the Council's community and area, the best ways to bring a notice of a Council and Council committee meeting to the public's attention and other relevant matters. Council's Facebook page is utilised to advertise Council and Council committee meetings and Information or Briefing Sessions.
- 7.3. Access to Council and Council Committee Meeting Documents
- 7.3.1. The Chief Executive Officer must give written notice to Council members and Council committee members at least three (3) clear days prior, before a Council or Council committee meeting (unless it is a special meeting) setting out the date, time and place of the meeting. The notice of meeting must include the agenda and items listed and described accurately with reasonable detail.
 - 7.3.2. The Chief Executive Officer will provide Council and Council committee meeting minutes to Council members and Council committee members within five (5) days of the meeting.
 - 7.3.3. The Chief Executive Officer will make available to the public:
 - 7.3.3.1. The notice of meeting and agenda (excluding items under a confidential order) will be made available, a minimum of three (3) clear days prior to the meeting:
 - At Council's principal office (51 Taylor Street, Kadina SA 5554), where it will remain on display until completion of the meeting;
 - On Council's website www.coppercoast.sa.gov.au, and be retained indefinitely;
 - Limited copies of the agenda (excluding confidential items) will be made available for members of the public in attendance.

- In the case of a document or report supplied to Council members and Council committee members within the three (3) clear days prior and/or at the Council meeting, as soon as practicable, the documents will be uploaded on Council's website www.coppercoast.sa.gov.au.
- 7.3.3.2. Minutes of Council and Council committee meetings (excluding items under a confidential order) will be made available within five (5) days of the meeting:
- At Council's principal office (51 Taylor Street, Kadina SA 5554) for a period of one (1) month;
 - On Council's website www.coppercoast.sa.gov.au and be retained indefinitely;
- 7.3.4. In addition, members of the public can:
- 7.3.4.1. Access Council and Council committee meetings documents on computers provided by Council at the Kadina and Wallaroo Libraries and Volunteer Resource Centre at the Moonta Tourist Office; and
- 7.3.4.2. Obtain a copy of the Council and Council committee meetings documents, on payment of a fee in accordance with Council's Register of Fees and Charges.
- 7.3.5. Meeting agendas provided to Council members or Council committee members, may include an indication from the Chief Executive Officer that the Council or Council committee may determine to consider an item in confidence, with the public to be excluded from the meeting during discussion of that item. Where such an indication is made, the Chief Executive Officer must specify the basis under which the confidentiality order could be made in accordance with Section 90(3) of the Act.
- 7.3.6. Requests to access Council and Council committee documents can be made under the Freedom of Information Act 1991. Inquiries in relation to the process for seeking access to documents held by Council should be directed to Council's Freedom of Information Officer.
- 7.4. Access to Council and Council Committee Meetings
- 7.4.1. Council and Council committee meetings are open to members of the public and attendance is welcomed.
- 7.4.2. Council meetings will be live streamed on a website determined by the Chief Executive Officer who will ensure that members of the public can hear the discussion between all Council members present at the meeting. Council meetings will not be recorded.
- 7.4.3. Council committee meetings will not be live streamed.
- 7.4.4. The Chief Executive Officer may order an item on the agenda be closed to the public if the matter listed for discussion meets the confidentiality provisions of Section 90(3) of the Act. Members of the public will be required to leave the meeting room and live streaming paused.
- 7.5. Access to Information or Briefing Sessions (including Session Documents)
- 7.5.1. Council can hold information or briefing sessions where more than one (1) member of Council or a Council committee is invited for the purposes of providing information or a briefing to attendees in accordance with Section 90A of the Act.

- 7.5.2. A matter must not be dealt with at an information or briefing session in such a way so as to obtain, or effectively obtain, a decision outside of a formally constituted meeting of Council or a Council committee.
- 7.5.3. An information or briefing session on a matter that will be included on a Council agenda must be open to the public. However, the Chief Executive Officer can order that the session be closed to members of the public if the matter listed for discussion meets confidentiality provisions of Section 90(3) of the Act.
- 7.5.4. The Chief Executive Officer will place an advance notice of any proposed information or briefing sessions (unless it is a special meeting) by including summary of session dates in the quarterly Council Newsletter, on Council's website www.coppercoast.sa.gov.au; and, subject to timing, place a public notice in the local paper a minimum of seven (7) days prior to the session.
- 7.5.5. Information or briefing sessions will not be live streamed.
- 7.5.6. Whether or not an information or briefing session has been open to members of the public, the following information must be published as soon as practicable after the holding of the session:
- 7.5.6.1. the date, time and place of the session;
- 7.5.6.2. the matter(s) discussed at the session; and
- 7.5.6.3. whether or not the session was open to members of the public.
- 7.6. Use of the Confidentiality Provision
- 7.6.1. In accordance with the requirements of Section 90(3) of the Act, Council or a Council committee may order that the public be excluded in order to receive, discuss or consider any of the following information or matters in confidence:
- 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 proposal to prepare or amend a designated instrument under Part 5 Division 2 of the Planning, Development and Infrastructure Act 2016 before the draft instrument or 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;*
- o) *information relating to a proposed award recipient before the presentation of the award.*

7.6.2. The Act provides a definition of ‘personal affairs’ which includes a person’s financial affairs, criminal records, marital or other personal relationships, personal qualities, attributes or health status, employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person, but it does not include the personal affairs of a body corporate.

NOTE: This is an inclusive (not exhaustive) list of personal affairs matters and other matters may also constitute a person’s personal affairs.

7.6.3. With respect to matters on the agenda, where a person provides information to the Council and requests that it be kept confidential, Council is not able to even consider this request unless the matter is one that falls within Section 90(3) of the Act. If this is the case, Council will then be in a position to consider the request on its merits.

7.6.4. In considering whether an order should be made under Section 90(2) of the Act, it is irrelevant that discussion of a matter in public may:

- 7.6.4.1. Cause embarrassment to the Council or Council committee concerned, or to members or employees of the Council;
- 7.6.4.2. Cause a loss of confidence in the Council or Council committee;
- 7.6.4.3. Involve discussion of a matter that is controversial within the Council area; or
- 7.6.4.4. Make the Council susceptible to adverse criticism.

7.6.5. When a decision to exclude the public is taken, the Council or Council committee is required to record in the minutes the reason for making the order and specify:

- 7.6.5.1. The grounds on which it was made;
- 7.6.5.2. The basis on which the information or matter falls within the ambit of each confidentiality ground; and
- 7.6.5.3. If relevant, why receipt, consideration or discussion of the information or matter in public would be contrary to the public interest.

- 7.6.6. Once discussion of the matter is concluded, the meeting must then consider if it is necessary to make an order identifying the document(s) or parts of the document(s) associated with that item (including minutes) that are to remain confidential. If the meeting determines that it is necessary to keep a document(s) or parts of document(s) confidential, then a resolution for an order to this effect is required in accordance with Section 91(7) of the Act.
- 7.6.7. The Council or Council committee can only resolve to keep minutes and/or documents confidential under Section 91(7) of the Act if they were considered in confidence at a Council or Council committee meeting pursuant to Sections 90(2) and 90(3) of the Act.
- 7.6.8. The Council or Council committee will not consider a number of agenda items 'in confidence' together (i.e. en bloc). Council will determine each item separately and consider the exemptions relevant to each item.
- 7.6.9. Once discussion of the matter has concluded and the public have returned, the decision in relation to the matter will be communicated unless the Council has resolved to order that the resolution remain confidential. Details relating to any order to keep information or a document confidential in accordance with Section 91(7) of the Act will also be made known.
- 7.6.10. In accordance with Section 91(8) of the Act, the Council or Council committee must not make an order to prevent the disclosure of the:
- 7.6.10.1. Remuneration or conditions of service of a Council employee after the remuneration or conditions have been set or determined; or
- 7.6.10.2. Identity of a successful tenderer for the supply of goods or the provision of services (including carrying out of works), or of any reasons adopted by the Council as to why a successful tenderer has been selected; or
- 7.6.10.3. 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
- 7.6.10.4. 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.
- 7.6.11. Where keeping a document confidential is considered necessary, the resolution is required to include:
- 7.6.11.1. The grounds for confidentiality; and
- 7.6.11.2. 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 – if the order has a duration of more than twelve (12) months, the order must be reviewed at least once every year; and
- 7.6.11.3. If applicable, whether the power to revoke the order will be delegated to an employee of the Council.
- 7.6.12. In all cases the objective is that the information be made publicly available at the earliest possible opportunity and that the community is informed of any Council order and the associated implications.
- 7.6.13. There is no legal requirement to resolve to 'come out of confidence' or to go back into 'public session'. The public should be invited to re-enter the meeting when consideration of the relevant agenda item has concluded. The public are also entitled to be present for the debate and decision on whether any subsequent item should be considered in confidence.

7.7. Process to Exclude the Public from a Meeting

- 7.7.1. Council will deal with agenda items in the order listed in the agenda. Where possible, Council or Council committee will place items for consideration in confidence in the last section of the Council or Council committee agenda, to allow all other items of business to be transacted with the public present at the meeting and not require them to leave the room until the 'Confidential' section of the agenda is reached.
- 7.7.2. Before a meeting orders the public to be excluded to enable consideration of a particular matter in confidence, the Council or Council committee must, in public, formally determine if it is necessary and appropriate, and then pass a resolution to exclude the public while dealing with that particular matter. If this occurs, then the public must leave the room. This means that all members of the public (including staff, but not a Council member or Council committee member), unless exempted by being named in the resolution as entitled to remain.
- 7.7.3. Once Council or a Council committee has made the order, it is an offence for a person, who knowing that an order is in force, to enter or remain in the meeting room. It is lawful for an employee of Council or a member of the police to use reasonable force to remove the person from the room if he or she fails to leave on request.
- 7.7.4. Section 90(5) of the Act provides a legal power for a Council employee to use reasonable force to remove someone from a meeting where an order to exclude the public is in place. However, it is recommended that if any form of force is required that it be left to the police to deal with.
- 7.7.5. Once discussion on that particular matter is concluded, the public are then permitted to re-enter the meeting. If there is a further matter that needs to be considered in confidence it is necessary to repeat the formal determination process and to resolve to exclude the public as above.
- 7.7.6. Council or the Council committee can permit a particular person(s) to remain in the meeting by including reference to them within the resolution. An example would be allowing a ratepayer who is suffering personal hardship to remain in the meeting when their circumstances concerning the payment of rates is being discussed.

7.8. Review of Confidentiality Orders

- 7.8.1. A confidentiality order made under Section 91(7) of the Act must specify:
 - 7.8.1.1. The duration of the order; or
 - 7.8.1.2. The circumstances in which the order will cease to apply; or
 - 7.8.1.3. The period after which the order must be reviewed.
 - 7.8.1.4. In any event, any order that operates for a period exceeding twelve (12) months, must be reviewed at least once in every year.
- 7.8.2. The Chief Executive Officer will maintain a Register of Confidentiality Orders and also include information on the released confidential minutes and documents that are required to be made available to the public.
- 7.8.3. A confidentiality order will lapse if the time or event specified has been reached or carried out. Council is not required to resolve for the confidentiality order to be lifted. Once the order expires or ceases to apply, minutes and documents automatically become public and Council will make them public by publishing it on Council's website at the earliest opportunity.

- 7.8.4. Confidentiality orders that exceed twelve (12) months must be reviewed annually. Council must assess whether the grounds for non-disclosure are still relevant and, if so, provide the relevant grounds and reasons for the minutes and/or documents to remain confidential. The conduct of the annual review is delegated to the Chief Executive Officer and sub-delegated to an employee of the Council, if appropriate.
- 7.8.5. When an original confidentiality order is about to expire, a fresh confidentiality order will require a report to Council making recommendations with respect to each item to be retained in confidence. Each item must be addressed separately and assessed against Sections 90(3) and 91(7) of the Act. While Council can delegate the power to undertake the annual review, Council cannot delegate the power to apply Sections 90(3) and 91(7) of the Act.
- 7.8.6. Where keeping a document confidential is considered proper and necessary, a resolution to this effect is required and shall include:
- 7.8.6.1. The grounds for confidentiality; and
- 7.8.6.2. 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 – if the order has a duration of more than twelve (12) months, the order must be reviewed at least once in every year;
- 7.8.7. A Council may resolve to exclude the public from a meeting to discuss and undertake consideration of the recommendations arising from the annual review in confidence, subject to the application of the relevant ground under Section 90(3) of the Act. Section 90(3) of the Act must be applied separately to each item within the scope of the review and not en bloc.
- 7.8.8. The Council or Council committee may delegate to an employee of the Council the power to revoke an order made in accordance with Section 91(7) of the Act. Such delegation may be subject to conditions.
- 7.9. Accountability and Report to the Community
- 7.9.1. Consistent with the principle of accountability to the community, a report on the use of Sections 90(2) and 91(7) of the Act by the Council and Council committees must be included in the Council's Annual Report as required by Schedule 4 of the Act.
- 7.9.2. The report will include the following information, separately identified for both Council and Council committees:
- 7.9.2.1. Total number of orders made under Sections 90(2), 90(3) and 91(7) of the Act in the relevant financial year;
- 7.9.2.2. The date and subject of each order made under Sections 90(2), 90(3) and 91(7) of the Act in the relevant financial year;
- 7.9.2.3. In relation to each ground specified in Section 90(3) of the Act, the number of times in the relevant financial year that an order was made under Sections 90(2) and 90(3) of the Act for each ground;
- 7.9.2.4. The number of orders made under Section 91(7) of the Act that expired, ceased to apply or were revoked during the relevant financial year and the date and subject of each such order; and
- 7.9.2.5. The number of orders made under Section 91(7) of the Act since 15 November 2010 that remained operative at the end of the relevant financial year.

- 7.9.2.6. The number of occasions each of the provisions of Sections 90(2), 90(3) and 91(7) of the Act were utilised, respectively expressed as a percentage of total agenda items considered; and
- 7.9.2.7. An indication of any particular issues that contributed to the use of confidentiality provisions on more than one occasion e.g. a proposal to acquire a parcel of land was considered on three (3) separate occasions.

8. Complaints

- 8.1. Complaints under this Code of Conduct must be in writing to the Chief Executive Officer and lodged in accordance with Council’s Complaints Policy.
- 8.2. Should a person be aggrieved about public access to either a meeting or a document then a request, in writing, can be lodged for consideration under Council’s Internal Review of Council Decisions Policy.

9. Delegation

- 9.1. Pursuant to Section 44 of the Local Government Act 1999, Council has delegated to the Chief Executive Officer authority to administer Council’s policies.
- 9.2. This Policy will be implemented by the Chief Executive Officer and managed in accordance with Council’s scheme of delegations.

10. Adoption and Review

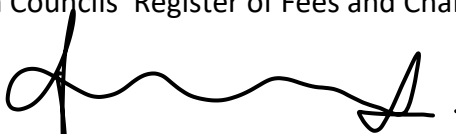

- 10.1. This Code of Conduct has a mandatory requirement to be reviewed within twelve (12) months after each periodic election, or more frequently, if legislation or Council requires, by the Executive Services Department and a report shall be provided to Council adoption and implementation.

11. Records Management

- 11.1. Official records will be managed in accordance with Council’s Records Management Policy pursuant to Section 125 of the Local Government Act 1999.

12. Availability of Policy

- 12.1. Policies (including Code of Conduct) will be available for inspection without charge at the Council’s Principal Office and on Council’s website www.coppercoast.sa.gov.au.
- 12.2. A copy of this Code of Conduct may be obtained on payment of a fee in accordance with Councils’ Register of Fees and Charges.

Signed		
	Mayor	Chief Executive Officer
Date	6th July 2022	