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<p align="center">CODE OF PRACTICE</p> <p align="center">FOR ACCESS TO COUNCIL AND COMMITTEE MEETINGS AND DOCUMENTS</p>		

Policy Statement

1. Introduction

- 1.1. Copper Coast Council (Council) is committed to providing open and accountable governance with transparent and informed decision-making, ensuring appropriate public access to Council and Committee meetings (meetings) and Minutes, Agendas and reports (documents).
- 1.2. Council recognises it may be necessary in the broader community interest, to restrict public access to meetings and documents.
- 1.3. The Code of Practice for Access to Council and Committee Meetings and Documents (Code) outlines the rules and procedures to access meetings and documents, and how Council can apply the confidentiality provisions in accordance with the Local Government Act 1999 (Act) and Local Government (General) Regulations 2013 (Regulations).

2. Scope

- 2.1. Council is required to adopt a Code of Practice (s92 of the Act) relating to the principles, policies, procedures and practices that Council will apply for the purposes of Parts 3 (Public access to Council and Committee meetings) and 4 (Minutes of Council and Committee meetings and release of documents).
- 2.2. The Minister may vary or suspend the operations of the Act (under section 302B of the Act) and this was exercised in 2020 - Electronic Participation in Council Meetings: Public Health Emergency (Notice No 1).

On 15 March 2020, the Chief Executive of the Department for Health and Wellbeing in the State of South Australia, pursuant to section 87 of the South Australian Public Health Act 2011, declared that an emergency which threatens to cause the death of, or injury or other damage to the health of any person is occurring or about to occur in relation to the transmission of COVID-19, and declared the emergency to be a public health emergency.

On 22 March 2020, the State Co-ordinator for the State of South Australia declared, pursuant to section 23 of the Emergency Management Act 2004, that a Major Emergency is occurring in respect of the outbreak of Human Disease (COVID-19) within South Australia.

*On 30 March 2020 the Minister for Transport, Infrastructure and Local Government issued a notice pursuant to section 302B of the Local Government Act 1999 (**Notice No 1**) varying or suspending the operation of the specified provisions of the Local Government Act 1999 as set out in Schedule 1 to Notice No 1 which commenced operation on 31 March 2020.*

For the period Notice No 1 has effect (as provided for in Notice No 1), this Code of Practice is altered as set out below and those alterations have effect notwithstanding any other provision in this Code of Practice to the contrary.

Notice No 1:

- *provides that a Council is not required to adopt any provision in a code of practice that would prevent or inhibit members from participating in Council meetings or Council committee meetings by electronic means;*
- *provides that Council members may meet by electronic means to alter the code of practice of the Council, or substitute a new code of practice of the Council, even if the existing code of practice prevents or inhibits the Council members from meeting by electronic means;*
- *the requirement in section 92(5) that before a Council adopts, alters or substitutes a code of practice it make copies of the proposed code, alterations or substitute code (as the case may be) available for inspection and purchase at the principal office of the Council and on a website determined by the Council and that the Council follow the steps set out in its public consultation policy is suspended while these provisions are in effect.*
- *For the avoidance of doubt, the Code of Practice as set out below this Code of Practice otherwise applies to all meetings of the Council. To the extent that any other provision in this Code of Practice could be read as being inconsistent or incompatible with the ability of the Council to hold electronic meetings, the provision is suspended while these provisions are in effect.*

2.3. As required under the Act, the Code details the:

- public access to meetings and meeting documents;
- order that can be applied by the Council, or a Council committee to exclude the public from attending and accessing documents;
- process to exclude the public from meetings;
- application of confidentiality provisions; and
- reporting and reviewing requirements of confidentiality orders.

3. Applicable Legislation

3.1. The following legislation applies to this Policy:

- Local Government Act 1999
- Local Government (General) Regulations 2013
- Public Interest Disclosure Act 2020
- Freedom of Information Act 1991

3.2. This Policy is a mandatory requirement and supports good governance.

4. Integration with Corporate Objectives

4.1. This Policy 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. Definitions

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

- 5.1. **Agenda** as defined in the Act means a list of items of business to be considered at a meeting.
- 5.2. **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.
- 5.3. **Clear days** means that the time between the giving of the notice and the day of the meeting, but excluding both the day on which the notice was given and the day of the meeting, e.g. notice is given on a Thursday for a following Monday meeting, the clear days are Friday, Saturday and Sunday.
- 5.4. **Connect** means to be able to hear and/or see the meeting, including via a live stream or recording of the meeting.
- 5.5. **Committee** as defined under section 41 of the Act of established Council Committees.
- 5.6. **Council** means the Copper Coast Council and any delegate of the Council.
- 5.7. **Disconnect** means removes the connection so as to be unable to hear and see the meeting.
- 5.8. **Live Stream** means the transmission of audio and/or video from a meeting at the time that the meeting is occurring.
- 5.9. **Minutes** means a written record of the proceedings at every meeting of the Council or a Council Committee.
- 5.10. **Notice of a Meeting (Notice)** means pursuant to the Act in the case of an ordinary meeting or Council Committee meeting, the CEO must give each member of the Council a Notice of the Meeting at least three (3) Clear Days before the date of the meeting. In the case of a special Meeting or a special Council Committee meeting, the CEO must give each member of Council a Notice of the Meeting at least four (4) hours before the commencement of the meeting. A Notice of a Meeting of the Council must be in writing, setting out the date, time and place of the meeting, be signed by the CEO and contain or be accompanied by the Agenda for the meeting. For Council Committee meetings, the Notice is not required to be signed by the CEO.
- 5.11. **Personal Affairs** as defined in section 90(9) of the Act, being a person's financial affairs, criminal records, marital or other personal relationships, personal qualities, attributes or health status, or that person's employment records, employment performance or suitability for a particular position, or other personnel matters relating to the person, but doesn't include the Personal Affairs of a body corporate.
- 5.12. **Presiding Member** as defined under the Local Government (Procedure of Meetings) Regulations 2013, the person who is the Presiding Member of a Council or Council Committee (as the case may be) and includes any person who is presiding at a particular meeting.

6. Application

6.1. The Code applies to Council and Committee meetings and should be read in conjunction with Council's Code of Practice for Council and Committee Meeting Procedures.

6.2. Access to Council and Committee Meeting Documents

6.2.1. Public access to meeting documents provides the public an opportunity to obtain information about the business of Council and Committees.

6.2.2. The public are able to access Council and Committee documents on Council provided computers at the Libraries and Volunteer Resource Centre at the Moonta Tourist Office.

6.2.3. Members of the public may obtain a copy of meeting documents for a fee in accordance with Council's adopted Schedule of Fees and Charges.

6.2.4. Documents will not be made available for public inspection while a confidential order under section 91(7) of the Act remains in place.

6.2.5. 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.

6.2.6. Notice and Agenda

- a) The CEO will give advance notice of Council and Council Committee meetings by placing an advertisement in the local paper a minimum of seven (7) days prior to the meeting and an annual article in the Council Newsletter summarising the meeting dates.
- b) The CEO must give at least three (3) clear days written notice prior, to Council and Committee members, before a Council or Committee meeting (unless it is a special meeting) setting out the date, time and place of the meeting. The meeting notice must include the meeting agenda and items listed on the agenda will be described accurately and in reasonable detail.
- c) The CEO will make available the Notice of Meeting and Agenda by placing on:
 - (i) public display at the principal office of Council at least three (3) clear days prior to the meeting until completion of the meeting;
 - (ii) Council's website at least three (3) clear days prior to the meeting and continue to be published on the website indefinitely.
- d) Limited copies of the Agenda documents and non-confidential reports that are to be considered at the meeting, will be made available to members of the public in attendance.

6.2.7. Minutes

- a) The CEO will ensure Minutes of Council and Committee meetings be:
 - (i) received by Council members within five (5) days of the meeting;
 - (ii) placed on public display at Councils principal office within five (5) days of the meeting for a period of one (1) month;
 - (iii) placed on Council's website within five (5) days and will continue to be published on the website indefinitely;

- b) Where Minutes have a resolution under a confidential order, that section of the Minutes will be excluded until it expires or ceases to apply as outlined in Clause 6.5.

6.2.8. Access to Meeting Documents - Under Notice 1

For the period of the operation of Notice No 1 outlined in Clause 2.2, the:

- a) requirement that the CEO to give notice to the public of the times and places of Council meetings by placing the Notice of Meeting and Agenda on public display at each office of the Council that is open to the public for the general administration of Council business within its area **is suspended**.
- b) requirement that the CEO must ensure copies of any document or report supplied to members of the Council for consideration at a meeting of the Council are available for inspection by members of the public at the principal office of the Council or at the meeting **is suspended**.
- c) CEO will ensure that any document or report supplied to members of the Council for consideration at a meeting of the Council is available for inspection by members of the public, in the case of a: –
 - document or report supplied to members of the Council before the meeting - on Council's website as soon as practicable after the time when the document or report is supplied to Council members; or
 - document or report supplied to members of the Council at the meeting - on Council's website as soon as practicable after the time when the document or report is supplied to Council members.

6.2.9. Access to Meeting Documents - Under a Confidential Order

- a) Council Agendas may include a recommendation from the CEO that a document or report on a particular matter should be considered in confidence and the public are required to be excluded. Where this occurs, the CEO must specify under section 90(3) on the basis such an order could be made in consultation with the principal member of the Council, or in the case of a Committee - the presiding member.
- b) Where keeping a document confidential is considered proper and necessary, a resolution to this effect is required and shall include:
 - the grounds for confidentiality; and
 - 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;
- c) In accordance with section 91(8) of the Act, Council or the Council Committee must not make an order that prevents:
 - 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
 - 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

- 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
- 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.

6.2.10. Council is required to record in the Council and Council Committee meeting Minutes, the reason for making of a confidential order.

Examples:

Pursuant to Section 90(3)(a)

Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public, except [insert names and job title for staff members present and/or names of any other person i.e. consultant/external advisor] be excluded from attendance at the meeting for Agenda Item [...] [Brief Description of Agenda Item]

The Council is satisfied that, pursuant to Section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead), being [insert name of person] because [insert reasons]. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because [insert reasons].

Pursuant to Section 91(7)

That having considered Agenda Item [...] [Brief Description of Agenda Item] in confidence under section 90(2) and (3)(a) of the Local Government Act 1999, the Council, pursuant to Section 91(7) of that Act orders that the [identify the documents and/or Minutes relevant to Agenda Item X] be retained in confidence [for a period of 6 months) or until (trigger can be an event i.e. the contract has been signed, a public announcement has been made)] and that this order be reviewed every 12 months [if the confidentiality period is longer than 12 months in duration].

6.2.11. In the event Council places a matter under a confidential order, the related section of the Minutes and documents must be excluded and will not be available for public inspection until the order expires or ceases to apply pursuant to section 91(9) of the Act. Orders will be reviewed in accordance with Clause 6.2.13.

6.2.12. Review of Confidential Orders Requirements

- a) A confidential order made under section 91(7) of the Act must specify:
 - (i) the duration of the order; or
 - (ii) the circumstances in which the order will cease to apply; or
 - (iii) the period after which the order must be reviewed.
- b) The CEO will maintain a register of the confidential orders and will be published on Council's website. In all cases, the objective is that the information is to be made publicly available at the earliest opportunity. The CEO will maintain a register of released confidential retention documents. Released documents are available on Council's website.

- c) A confidential order will lapse if the time or event specified has been reached or carried out. There is no need for the Council to resolve for the confidential order to be lifted. Once the order has lapsed, the Minutes and/or documents automatically become public.
- d) Whilst a review of retention orders and confidential documents must be conducted pursuant to section 91(8) of the Act, Council will conduct a review twice a year to ensure that items are released to the public in accordance with the resolutions of Council.
- e) Confidential orders must be assessed on the grounds for non-disclosure are still relevant. Any orders that are due to expire, continues to have relevant grounds and reasons to remain confidential will require a fresh confidentiality order. A report to Council, must be prepared making recommendation with respect to each item to be retained in confidence and addressed separately. Section 90(3) of the Act must be applied separately to each item and not en bloc.
- f) Council may resolve to exclude the public from the 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.
- g) In the event, a confidentiality order is no longer required, 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. The Council or Council Committee may also include in the resolution whether any delegation is given to an employee to revoke the order and if relevant, any conditions associated with the delegation.

6.3. Access to Council and Committee Meetings

- 6.3.1. Council and Committee meetings must be held in accordance with section 90 of the Act and open to the public, except where Council or Committee identifies it is lawful and necessary to exclude the public; from a meeting or a specific item of the meeting; as a matter complies with one or more of the criteria under section 90(3).
- 6.3.2. Council and Committee meetings are live streamed on a website determined by the CEO and ensures that members of the public can hear the discussion between all Council members present at the meeting including in attendance via live streaming. The Council and Committee meetings will not be recorded.
- 6.3.3. A Council or Committee meeting held during the period of the operation of Notice No 1 outlined in Clause 2.2; will be taken to be conducted in a place open to the public even if one (1) or more Council members participate in the meeting by electronic means provided that:
 - a) the CEO (or a person nominated in writing by the CEO) makes available to the public, a live stream of the meeting on a website determined by the CEO and ensures that members of the public can hear the discussion between all Council members present at the meeting via the live stream; or

- b) if the CEO (or a person nominated in writing by the CEO) has taken reasonable steps to make available a live stream of the meeting but is unable to make available a live stream of the meeting, the CEO (or a person nominated in writing by the CEO) makes available to the public a recording of the meeting as soon as practicable after the meeting on a website determined by the CEO and ensures that members of the public can hear the discussion between all Council members present at the meeting via the recording.
- c) If the CEO (or a person nominated in writing by the CEO) has taken reasonable steps to make available to the public a live stream of the meeting or, (if unable to make available a live stream of the meeting) a recording of the meeting but is unable to comply the CEO (or a person nominated in writing by the CEO) must publish on a website determined by the CEO the steps taken to comply.

6.4. Access to Information or Briefing Sessions and Session Documents

- 6.4.1. Information or briefing sessions will be held in accordance to section 90A of the Act (previously known as Informal Gatherings) and are open to the public.
- 6.4.2. Information or briefing sessions are arranged by the Council or the CEO where matters must not be dealt with at an information or briefing session in such a way as to obtain, or effectively obtain, a decision on the matter outside a formal meeting of the Council or a Council Committee.
- 6.4.3. Information or briefing sessions held during the period of the operation of Notice No 1 outlined in Clause 2.2; will be undertaken as per Clause 6.3.3 for Council and Council Committee meetings.
- 6.4.4. Advance notice of an information or briefing sessions will be carried out as per Clause 6.2.6 for Council and Council Committees.
- 6.4.5. All session documents will be made available as per Clause 6.2.7 for Council and Council Committee documents.
- 6.4.6. The Council or CEO may under section 90A(4) of the Act, make an order to close a part or the whole session to the public to receive, discuss and consider in confidence any matter listed appropriate to do so under section 90(3) of the Act and will be undertaken as per Clause 6.2.9.
- 6.4.7. In the event Council places a matter under a confidential order, the related session documents must be excluded and will not be available for public inspection until the order expires or ceases to apply pursuant to section 91(9) of the Act. Each order will be reviewed in accordance with Clause 6.2.13.
- 6.4.8. All sessions will be live streamed as per Clause 6.3.2 for Access to Council and Committee meetings.
- 6.4.9. Members of Council, Committee members and staff can lawfully participate in an information or briefing session, provided that a matter which would ordinarily form part of the Agenda for a formal meeting, is not dealt with in such a way as to obtain, or effectively obtain, a decision outside of a formally constituted meeting of Council or Committee.

6.5. Use of the Confidentiality Provision

- 6.5.1. Any consideration for the use of the confidentiality provisions to exclude the public from the discussion of a particular matter at a meeting will require the identification of one or more of the grounds listed within section 90(3) of the Act and the factual reasons for the relevance and application of the ground(s) in the circumstances.
- 6.5.2. If a decision to exclude the public is taken, the Council or the Council Committee is required to record in the Minutes of the making of the order and the grounds on which it was made.

Procedure to Exclude the Public from a Meeting or portion of a Meeting:

- Before a meeting orders that the public be excluded to enable the discussion and consideration of a particular matter, the meeting must, in public, formally determine if this is necessary and appropriate, and then pass a resolution to exclude the public while dealing with that particular matter. The public will not be excluded until confidentiality motion has been debated and passed.
- Information and sufficient reason on the grounds on which an order to exclude the public is made, will be conveyed to the public at the time of them being requested to leave the meeting.
- The public must leave the room. This means that all members of the public (including staff), unless exempted by being named in the resolution as entitled to remain, are required to leave the room. For the operation of s90(2), a member of the public does not include a member of Council. Please note that the Council, or the Council Committee, can by inclusion within the resolution permit a particular person or persons to remain in the meeting.
- For the convenience of the public present at a meeting, where it is resolved to consider a matter in confidence, this matter may be deferred until all other business has been dealt with, rather than ask the public to leave the room and wait for however long it takes until the matter is concluded and then allow the public to return to the meeting room with the possibility of the same process being repeated for a subsequent matter.
- 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, enters or remains in a room in which such a meeting is being held. 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. **It is recommended that if any form of force is required, that it be left to the police to deal with.**
- On conclusion of the discussion on a particular matter, the public are then permitted to re-enter the meeting. Should there be a further matter that needs to be considered in confidence, it will be necessary to again undertake the formal determination process and to resolve to exclude the public as above.
- If the meeting determines it proper and necessary to keep a document confidential, then a resolution for an order is required pursuant to s91(7) of the Act. In determining this, the meeting must have regard to s91(8) of the Act which Council must not order that a document remain confidential;
- Details relating to an order to keep information or a document confidential in accordance with s91(7) of the Act are also to be made known. When making an order the meeting 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. If the s91(7) order is to apply for a period exceeding 12 months, then this order must be reviewed every 12 months from

the date it was made. This along with the making of the order pursuant to s90(2) and the grounds pursuant to s 90(3) on which it was made are also to be recorded in the minutes.

- Once discussion of the matter is concluded and the public have returned, the decision of the meeting in relation to this matter will be made publicly known unless the Council has resolved to order that some information remain confidential.
- 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; and
- 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 s90(3). If this is the case, Council will then be in a position to consider the request on its merits.

6.6. Reporting Requirements of Confidential Orders in Annual Report

6.6.1. Council will include in the Annual Report, a listing of the use of sections 90(2) and 91(7) of the Act by Council and Council Committees as required by Schedule 4 of the Act, and Local Government (General) Regulations 2013.

6.6.2. The reporting will include the following information, separately identified for both Council and Council Committees:

- a) In the case of a report on the use of section 90(2) of the Act, the following information is required:
 - The date, subject and total number of orders made under that subsection in the financial year;
 - In relation to each paragraph of section 90(3) of the Act, the number of times in the financial year that an order was made under section 90(2) on the basis that the information or matter fell within the ambit of the paragraph.
- b) In the case of a report on the use of section 91(7) of the Act, the following information is required:
 - The date, subject and total number of orders made under that subsection in the financial year
 - The number of orders made under that subsection that expired, ceased to apply or were revoked during the financial year
 - The number of orders made under that subsection that remained operative at the end of the financial year.
- c) The percentage of section 90(2) of the Act confidential meeting orders is calculated against the total number of Agenda items considered by Council and Council Committees.

7. Grievance Procedure

7.1. 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.

7.2. A member of the public is entitled to lodge a complaint with the South Australian Ombudsman if he/she has been aggrieved by a decision of Council to exclude the public from a meeting or prevented access to Council documents.

8. Delegation

- 8.1. Pursuant to section 44 of the Local Government Act 1999, Council delegates to the Chief Executive Officer authority to administer Council's policies.
- 8.2. In the event that a dispute or grievance arises from the content of this policy or other related matter, Council has established procedures for the review of decisions under section 270 of the Act for:
 - 8.2.1. Council, and its Committees;
 - 8.2.2. Employees of the Council; and
 - 8.2.3. Other persons acting on behalf of the Council.
- 8.3. An application can be lodged for the review of that decision under the procedure established by Council.

9. Adoption and Review

- 9.1. This Policy must 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 for consideration and adoption.

10. Records Management

- 10.1. Official records will be retained and stored in accordance with Council's adopted Records Management Policy as required by section 125 of the Local Government Act 1999.

11. Availability of Policy

- 11.1. This Policy will be available for inspection without charge at the Council's Principal Office during normal business hours and via the Council's website www.coppercoast.sa.gov.au.
- 11.2. A copy of this Policy may be obtained on payment of a fee in accordance with Councils' Schedule of Fees and Charges.

Signed

Mayor

Chief Executive Officer

Date