



## **DIRECTOR CORPORATE AND COMMUNITY SERVICES REPORT**

13 October 2009

<b>DCCS6</b>	<b>COUNCIL MEETING PROCEDURE – QUESTIONS WITHOUT NOTICE</b>
	<b>FILE: 395 COPY 149 (NRN) PJH</b>
	<b>(Folio *)</b>

### **SUMMARY:**

Reporting on the need to review council's practice of having questions without notice on the council meeting agenda.

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### **DESCRIPTION:**

In August 2009 the department of local government released its updated meetings practice note as a guide to councils. This updated practice note specifically discusses having "questions without notice" as an agenda item, stating that to do so is inconsistent with the regulations.

The relevant sections from the practice note are reproduced as follows:

#### **Is it appropriate to have, as an agenda item, "questions without notice"?**

Having an agenda item, "questions without notice" is inconsistent with the provisions of the regulation that require notice to be given of matters to be discussed at council meetings (clause 241).

Allowing questions without notice would avoid the notice provisions of clause 241 of the Regulation. That clause enables all councillors and the public to be aware, by reading the agenda, of matters that will be raised at each meeting. It also enables councillors to give careful thought to any pecuniary interest or conflict of interest they might have in a matter, rather than having to hastily confront an issue during the meeting.

#### **Can an agenda include provision for questions from councillors?**

Yes. Council agendas could contain an item "questions on notice". Councillors would provide questions to the general manager to be asked at the meeting and included on the agenda, in accordance with the notice provisions of the Regulation.

Questions provided in this way, and responses to those questions, would be considered council business and as such council's meeting code could cover this issue. As responses to questions on notice would be considered council business, responses could form the basis for further motions on the same topic at that meeting.

## **Council's Code of Meeting Practice to be amended**

Council's code of meeting practice allows for questions without notice under section 5.29 which states:

"Questions without notice shall be included in the order of business on the council meeting agenda and shall be limited to three questions."

To comply with the regulations council needs to consider alternative ways to address the matters previously raised as "questions without notice". The options could be:

1. Provide a "questions on notice" agenda item; with councillors to provide their questions in time for printing in the agenda. This would need to be in line with the cut-off time for notices of motion being 9.00am, Tuesday, one week before the meeting.
2. Delete questions without notice from the agenda. Councillors raise their questions through other avenues: Councillors information request sheets (pink forms), notices of motion, email or telephone calls.

Council should consider the necessity for their questions to be raised at the council meeting. Could the matters be addressed through the councillor's request forms? With council agendas and minutes being public documents issues can arise from wording of questions that could identify persons and potentially breach privacy legislation.

The advantage of having "questions on notice" in the agenda is that council could move a motion in relation to these if it wished. It also gives the relevant director time to provide a detailed response at the meeting. Previously where questions were raised without notice it often resulted in the councillor being advised to submit a notice of motion to the next meeting. The number of questions on notice should be limited to say three, as in our current meeting code.

With either option, if a matter is genuinely urgent, and the matter is not on the agenda, it could be dealt with under clause 241(3) of the regulation. To do this council the Mayor must rule the matter to be of great urgency and council must resolve to deal with it.

### **RECOMMENDATION IMPLICATIONS:**

- ***Environmental***

*Nil*

- ***Social***

*Nil*

- ***Economic (Financial)***

*Nil*

- ***Policy or Statutory***

*Council's code of meeting practice is an adopted council policy (C24:19). The code allows for local provisions to be inserted by each council but must not be inconsistent with the Local Government Act and Local Government (General) Regulation 2005 in relation to the conduct of its meetings.*

▪ **Directors Review**

*As per report.*

**General Manager's Comment:**

*Councillors should be aware that once notice of a question has been given it becomes business for which the council can move a motion. Unless some limitation is placed within the code of meeting practice restricting the practice it would be possible for motions to be raised based on a question put in the business paper. It is an option not to have questions as part of the business of council with councillors then raising questions through their "pink" forms outside of council meetings. Another option is to specify in the code of meeting practice that motions are not to be raised based on a question with notice.*

**RECOMMENDATION:**

- 1. That council delete "questions without notice" as a council meeting agenda item and this be replaced by an agenda item "questions on notice" with councillor's questions to be provided to the general manager by 9.00am one week prior to the meeting for inclusion in the meeting agenda.**
- 2. That council's code of meeting practice be amended accordingly.**

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**K E Oliver**  
**ACTING DIRECTOR CORPORATE AND COMMUNITY SERVICES**