

9.6. Committee of Council proposal

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ATTACHMENTS	1. Committee Charter Section 10A Committee [9.6.1 - 5 pages]
CSP LINK	Outcome 8 – An effective, accountable and sustainable Council that serves the community G4. Manage risks and maintain independent oversight in business operations and decision-making

PURPOSE:

The purpose of this report is to recommend the establishment of a Committee of Council for the purposes of considering matters that fall within the confidential provisions of section 10A of the Local Government Act 1993.

EXECUTIVE SUMMARY:

- Recent changes to Council's *Code of Meeting Practice*, reflecting updates to the Model Code of Meeting Practice for Local Councils in NSW, have removed the ability to hold pre-meeting Council briefings that are closed to the public.
- Historically, these briefings provided an important forum for Councillors to receive detailed information on matters involving confidentiality and/or legal privilege prior to formal consideration by Council.
- To ensure Councillors continue to have appropriate access to information, context, and expert advice necessary to support informed decision-making, it is proposed to establish a Committee of Council to consider matters in accordance with section 10A of the Local Government Act 1993 (NSW).
- The Draft Committee Charter (attached to this report) has been prepared to align with legislative requirements, Office of Local Government guidance, and Council's *Code of Meeting Practice*, ensuring that confidentiality is applied lawfully, consistently, and only where appropriate.

RECOMMENDATION:

1. THAT Council endorse the establishment of a Committee of Council for the purposes of consideration of matters that fall within the confidential provisions of section 10A of the Local Government Act 1993.

2. THAT Council review and adopt the Draft Charter for the Section 10A Committee of Council.

Background

This report seeks Council's endorsement to establish a Section 10A Committee as a Committee of Council under section 355 of the Local Government Act 1993 (NSW).

The purpose of the Committee is to provide a structured and governance-aligned mechanism for the consideration of matters that fall within the confidential provisions of section 10A of the Act.

The establishment of the Committee supports Council's commitment to:

- transparency and accountability in decision-making;
- ensuring the appropriate and consistent application of confidentiality provisions; and
- enhancing governance oversight of complex, sensitive, or high-risk matters.

The Committee will operate in an advisory capacity only and will not have delegated authority to make binding decisions.

Draft Terms of Reference are provided (Attachment 1) and have been prepared to align with legislative requirements, Office of Local Government guidance, and Council's adopted Code of Meeting Practice based on the Model Code of Meeting Practice for Local Councils in NSW.

Report

Section 10A of the Local Government Act 1993 (NSW) sets out the circumstances in which a Council meeting or part of a meeting may be closed to the public.

These provisions are essential to enable Council to consider matters where confidentiality is required, including (but not limited to):

- personnel matters;
- commercially sensitive information;
- contractual negotiations; and
- legal advice and litigation.

At the same time, there is a strong legislative and community expectation that confidentiality is applied only where necessary and that decision-making remains as transparent as possible. The Model Code of Meeting Practice for Local Councils in NSW reinforces that closed sessions must be justified, documented, and limited to circumstances permitted under the Act.

The proposed Section 10A Committee will provide a structured forum for the detailed consideration of matters that may be dealt with in closed sessions.

Under the proposal, the Committee will:

- review matters proposed to be considered under section 10A;
- assess whether confidentiality is appropriate and proportionate; and
- provide recommendations to Council for determination.

Importantly, the Committee will not replace Council's decision-making role, but will strengthen governance, consistency and confidence in the handling of confidential matters.

The establishment of the Committee is expected to deliver several governance benefits, including:

- improved consistency in the application of section 10A provisions;
- stronger risk management, particularly for complex or sensitive issues; and
- increased assurance for Council, the community, and oversight bodies.

The establishment of the Committee will reduce governance risk by:

- strengthening oversight of confidential matters;
- ensuring consistent application of legislative provisions; and
- supporting clear documentation and auditability of decisions.

This approach aligns with contemporary public sector governance expectations and supports Council's broader program of organisational improvement. Failure to appropriately manage confidential matters may expose Council to legal and compliance risks, reputational risk and reduced public confidence.

Consultation requirements

Community engagement is not required.

Financial/Resource Implications

There are no financial or resourcing implications associated with this report.

Legislation

- The Local Government Act 1993 (NSW) Section 10A (Confidential matters) and Section 355 (Committees)
- Council's *Code of Meeting Practice*

COMMITTEE CHARTER SECTION 10A COMMITTEE

READOPTED:

xxx

NEXT REVIEW:

xxx

DOCUMENT TYPE:

Council Committee Charter

CHARTER OWNER:

CHARTER REFERENCE:

CNCL_



1. Establishment

The Section 10A Committee (the Committee) is established by Council as a Committee of the Council under section 355 of the Local Government Act 1993 (NSW).

The Committee is authorised to consider matters that fall within the confidential provisions of section 10A of the Act and to provide advice and recommendations to Council.

The operation of the Committee will be consistent with the requirements of Council's adopted Code of Meeting Practice, based on the Model Code of Meeting Practice for Local Councils in NSW.

2. Purpose

The purpose of the Committee is to provide a structured, transparent and governance-aligned mechanism for the consideration of matters that may be dealt with in closed session in accordance with section 10A of the Act.

The Committee supports Council to:

- ensure the appropriate, lawful, and proportionate use of confidentiality provisions
- strengthen transparency, accountability, and consistency in decision-making
- provide a forum for detailed consideration of complex, sensitive, or high-risk matters
- maintain public confidence in Council's governance while protecting legitimate confidential interests

This Committee forms part of Council's commitment to continuous improvement in governance, ensuring that decision-making processes are transparent, accountable, and aligned with best practice public sector standards.

3. Functions

The Committee will:

3.1. Review Confidential Matters

Consider reports and matters identified as confidential under section 10A, including:

- personnel matters
- personal hardship of any ratepayer or resident
- commercially sensitive information
- contractual negotiations
- legal advice and litigation
- matters affecting the security of the Council, Councillors, Council staff, or Council property.

3.2. Provide Recommendations to Council

Make recommendations to Council for determination in closed session, noting that all final decisions remain with Council.

3.3. Assess appropriateness of confidentiality

Review whether the classification of matters as confidential is:

- consistent with legislative provisions
- supported by clear and documented reasoning
- necessary and proportionate, having regard to the public interest

3.4. Support Governance and Risk Management

Ensure that confidential matters are considered with appropriate regard to:

- probity and ethical conduct
- financial sustainability and resource implications
- legal and reputational risk
- community impact

3.5. Promote Transparency

Consistent with the Code of Meeting Practice:

- ensure that closed sessions are only used where permitted under section 10A
- support the release of information wherever lawful and appropriate
- encourage clear public reporting of decisions, including resolutions and reasons where possible

4. Delegations

The Committee is an advisory committee only and does not have delegated authority to make binding decisions on behalf of Council unless expressly resolved by Council.

All recommendations of the Committee will be reported to Council for determination in accordance with legislative requirements.

5. Membership

The Committee will comprise:

- the Mayor (Chair)
- all elected Councillors
- the Chief Executive Officer (or delegate) (non-voting)

Relevant Council officers will attend meetings as required to provide advice.

The Chief Executive Officer may engage external advisors to present at meetings where necessary to support informed decision-making.

6. Chairperson

The Mayor will act as Chair of the Committee.

In the absence of the Mayor, the Deputy Mayor will act as Chair.

7. Meetings

Meetings will be held as required and aligned, where practicable, with Council meeting cycles.

Additional meetings may be convened for urgent or time-sensitive matters.

A quorum will be a majority of appointed Councillor members.

Meetings will be conducted in accordance with Council's Code of Meeting Practice.

8. Confidentiality and Closed Sessions

The Committee will operate in strict accordance with section 10A of the Local Government Act 1993 (NSW) and Council's Code of Meeting Practice.

In particular:

- matters will only be considered in closed session where they meet the legislative criteria
- reasons for closing part of a meeting will be clearly stated and recorded
- the Committee will ensure that consideration is given to whether discussion could occur in open session prior to closure

All Committee members must:

- maintain the confidentiality of information discussed
- comply with Council's Code of Conduct

9. Reporting and Records

Recommendations of the Committee will be reported to Council for determination

Minutes will be recorded in accordance with legislative and Code of Meeting Practice requirements

Where permissible, resolutions and relevant information will be made publicly available following Council consideration

The Committee will support clear documentation of decisions to ensure transparency and auditability.

10. Interaction with Governance Framework

The Committee forms part of Council's broader governance and assurance framework, including:

- the Audit, Risk, and Improvement Committee (ARIC)
- Internal Audit
- Enterprise Risk Management framework

The Committee does not duplicate the role of these bodies but complements them by strengthening oversight and consistency in the handling of confidential matters.

11. Review

These Terms of Reference will be reviewed each term of Council or as required.

12. Authority

These Terms of Reference are adopted by resolution of Council and operate in accordance with:

- the Local Government Act 1993 (NSW)
- Council's Code of Meeting Practice
- Relevant guidance issued by the Office of Local Government

Version	Date Approved	Approved by	Resolution No.	Review Date
1				
2				