

# Code of Meeting Practice

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## **Preface**

Section 360(3) of the Local Government Act, 1993 requires a council and a committee of the council of which all the members are councillors to conduct its meetings in accordance with a code of meeting practice adopted by the council.

The Code of Meeting Practice developed by Waverley Council comprises provisions from the Local Government Act, 1993 (the Act) and the Local Government (General) Regulation 2005 (the Regulation), and complies with the (former) Department of Local Government's Model Code of Conduct for Local Councils June 2008 (the Model Code) and the NSW Division of Local Government, Department of Premier and Cabinet's Meetings Practice Note No 16 August 2009 (the Practice Note).

The Code sets out the rules of conduct for meetings of Council and its Standing Committees, and auxiliary committees operating within Council and associated with Council unless the committee has its own code or charter which has been adopted by Council.

It is not intended for the Code to contain provisions on every eventuality at a meeting. The Code allows some flexibility for the chairperson to conduct a meeting in the way they deem appropriate, so long as it is not inconsistent with the Code.

### **Process for developing, adopting and amending the Code**

Council must adopt a code of meeting practice that incorporates the regulations for Local Government and may supplement those regulations with provisions that are consistent with them.

Before adopting a code of meeting practice, Council must prepare a draft code and give notice to the public of the draft code. The period of public exhibition must not be less than 28 days and the public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to Council.

After considering all submissions received, Council may decide:

1. to amend those provisions of its draft code that supplement the regulations made for the purpose of section 360(2) of the Act; or

2. to adopt the draft code as its code of meeting practice.

If Council decides to amend its draft code, it may publicly exhibit the amended draft or, if Council is of the opinion that the amendments are not substantial, it may adopt the amended draft code without public exhibition as its code of meeting practice.

The Code may only be amended by Council through those means provided within the Act.

### **Non-compliance with the Code**

Councillors and all other persons at a Council meeting are required to comply with this Code of Meeting Practice.

Failure on the part of a councillor to comply with this Code at a meeting may be subject to a complaint under Council's Code of Conduct for Councillors, even if the matter was dealt with by the chairperson at the meeting.

The chairperson, a councillor, or any other person in attendance may write to the general manager alleging a breach of the Code of Conduct for Councillors by any councillor attending the meeting.



## **1. Holding of Meetings**

### **1.1 How often does council meet**

- (1) Council is required to meet at least 10 times each year, each time in a different month.

[section 365]

- (2) Council will normally hold its ordinary meetings on the third Tuesday of each month, its committee meetings on the first and fourth Tuesdays of each month and its site inspection meetings on the first or second Saturday of each month. Meetings will normally be held at the Council Chambers but may be held at or adjourned to other times or venues should that be expedient for the conduct of business.

[Council Policy]

### **1.2 Calling extraordinary meetings**

- (1) If the mayor receives a request in writing signed by at least 2 councillors, the mayor must call an extraordinary meeting of Council to be held as soon as practicable but in any event within 14 days after receipt of the request.

[section 366]

*Note: The mayor may be one of the 2 councillors who sign the request for an extraordinary meeting of Council.*

- (2) Council may resolve to hold extraordinary meetings as and when required.

[Council Policy]

*Note: There is nothing in the regulations stating the kind of business extraordinary meetings may deal with. These meetings are usually held to deal with special business or where there is so much business to be dealt with that an additional meeting is required.*

### **1.3 Minister to convene meetings in certain cases**

- (1) Whenever an area is constituted or reconstituted, the minister is required:

- (a) to convene the first meeting of the council of the area;  
and

- (b) to nominate the business to be transacted at the meeting; and
  - (c) to give councillors notice of the meeting.
- (2) If there is no quorum at that meeting, the Minister may convene meetings in the same manner until a quorum is present.
- (3) Council must transact the business nominated by the Minister for a meeting convened under this clause.  
[clause 234 of the Regulation]

## **2. Notice of Meetings**

### **2.1 Notifying councillors of meetings**

- (1) The general manager must send to each councillor, at least 3 days before each meeting of Council, a notice specifying the time and place at which, and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.
- (2) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.
- (3) A notice under this Section and the agenda for, and the business papers relating to, the meeting may be given to a councillor in electronic form but only if all councillors have facilities to access the notice, agenda and business paper in that form.

[section 367]

### **2.2 Notifying the public of meetings**

- (1) Council must give notice to the public of the times and places of its meetings and meetings of those of its committees of which all the members are councillors.  
[section 9(1)]
- (2) A notice of a meeting of Council or of a Council committee must be published in a newspaper circulating in the area before the meeting takes place.
- (3) The notice must specify the time and place of the meeting.

- (4) Notice of more than one meeting may be given in the same notice.
- (5) This section of this Code does not apply to an extraordinary meeting of Council or a committee.  
[clause 232 of the Regulation]
- (6) Should a Council or Council committee meeting not start within half an hour after the time designated for the holding of the meeting, the meeting must be adjourned to a fixed time, date and place by the chairperson or, in their absence, by the majority of the councillors present or, failing that, by the general manager (see also section 5.2 of this Code with regard to quorum).
- (7) Should the meeting be adjourned to resume on the same day, it is sufficient notice for the chairperson to announce to the meeting the time and place of the resumption.
- (8) Should the meeting be adjourned to resume on another day the provisions in section 2.2 of this Code should apply where practicable.  
[Council Policy based on clause 233 of the Regulation]

### **3. Notice of Business**

#### **3.1 Council agendas**

- (1) The general manager must ensure that the agenda for a meeting of Council states:
  - (a) all matters to be dealt with arising out of the proceedings of former meetings of Council; and
  - (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting; and
  - (c) subject to clause 3.1(2) of this Code, any business of which due notice has been given.
- (2) The general manager must not include in the agenda for a meeting of Council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would be) unlawful. The general manager must report (without

giving details of the item of business) any such exclusion to the next meeting of the Council.

- (3) The general manager must cause the agenda for a meeting of Council or a committee of the Council to be prepared as soon as practicable before the meeting.
- (4) The general manager must ensure that the details of any item of business to which clause 3.2(2)(a) of this Code applies are included in a business paper for the meeting.
- (5) Nothing in this section limits the powers of the chairperson under section 9.1 of this Code.

[clause 240 of the Regulation]

### **3.2 Public access to council agendas**

- (1) Council and each such committee must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting.
- (2) In the case of a meeting whose agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public:
  - (a) the agenda for the meeting should indicate that the relevant item of business is of such a nature (but must not give details of that item), and
  - (b) the requirements of clause 3.2(1) of this Code with respect to the availability of business papers do not apply to the business papers for that item of business.

*Note: Where clause 3.2(2) of this Code applies, the agenda must indicate the reason why the meeting should be closed to the public to deal with the item of business (see section 18.4 of this Code).*

- (3) The copies are to be available to the public as nearly as possible to the time they are available to councillors.
- (4) The copies are to be available free of charge.

- (5) A notice given under this section or a copy of an agenda or of a business paper made available under this section may in addition be given or made available in electronic form.

[section 9]

### **3.3 Agendas of extraordinary meetings**

- (1) The general manager must ensure that the agenda for an extraordinary meeting of Council deals only with the matters stated in the notice of the meeting.
- (2) Despite clause 3.3(1) of this Code, business may be transacted at an extraordinary meeting of a Council even though due notice of the business has not been given to councillors. However, this can only happen if:
- (a) a motion is passed to have the business transacted at the meeting; and
  - (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.

- (3) Despite section 11.14 of this Code, only the mover of a motion referred to in clause 3.3(2)(a) of this Code can speak to the motion before it is put.

[clause 242 of the Regulation]

### **3.4 Limitations on the transacting of business**

- (1) Council must not transact business at a meeting:
- (a) unless a councillor has been given notice of the business in writing within such time before the meeting as is fixed by section 2.1 of this Code, and
  - (b) unless notice of the business has been sent to councillors in accordance with section 2.1 of this Code.
- (2) Clause 3.4(1) of this Code does not apply to the consideration of business at a meeting if the business:

- (a) is already before, or directly relates to a matter that is already before Council; or
- (b) is the election of a chairperson to preside at the meeting as provided by section 6.2 of this Code; or
- (c) is a matter or topic put to the meeting by the chairperson in accordance with section 9 of this Code; or
- (d) is a motion for the adoption of recommendations of a committee of Council.  
[Council Policy based on clause 241 of the Regulation]

### **3.5 Urgent business**

- (1) Despite clause 3.4(1) of this Code, business may be transacted at a meeting of Council even though due notice of the business has not been given to councillors. However, this can happen only if:
  - (a) the business proposed to be brought forward is ruled by the chairperson to be of great urgency; and
  - (b) a motion is passed to have the business transacted at the meeting.

Such a motion can be moved without notice.

- (2) Despite section 11.14 of this Code, only the mover of a motion referred to in clause 3.5(1)(a) of this Code can speak to the motion before it is put.

*Note: A motion to have urgent business transacted at the meeting requires a seconder (see clause 11.12(1) of this Code).*

- (3) For business to be considered urgent it must be of a kind:
  - (a) that requires immediate action or attention, and
  - (b) that cannot be dealt with as a Mayoral Minute or Notice of Motion at a later meeting or by any other means.
- (4) The mover of the motion referred to in clause 3.5(1)(a) of this Code must, when speaking to the motion, explain why he or she believes the business to be of great urgency.  
[Council Policy based on clause 241 of the Regulation]

## 4. Attendance at Meetings

### 4.1 Who is entitled to attend meetings

- (1) Everyone is entitled to attend a meeting of Council and those of its committees of which all the members are councillors; and
- (2) Council will ensure that all meetings of Council and of such committees of which all the members are councillors are open to the public.
- (3) However, a person (whether a councillor or another person) is not entitled to be present at a meeting of Council or of such a committee if expelled from the meeting:
  - (a) by a resolution of the meeting, or
  - (b) by the person presiding at the meeting if Council has, by resolution, authorised the person presiding to exercise the power of expulsion.
- (4) A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by the regulations (see sections 13.2, 13.3 and 13.5 of this Code).

[section 10]

*Note: Behaviour that may lead to a person being expelled from a meeting includes failure to apologise without reservation for assaulting or threatening to assault another councillor or person present at the meeting; or failure to withdraw a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of Council or the Council committee; or failure to retract or apologise without reservation for insulting or making personal reflections on or imputes improper motives to any other councillor.*

- (5) The operation of this section is subject to the Council's power to close part of a meeting to the public in accordance with section 10A of the Act and section 18 of this Code.

[Council Policy]

#### **4.2 Attendance of the general manager at meetings**

- (1) The general manager is entitled to attend, but not to vote at a meeting of Council or a meeting of a committee of the Council of which all the members are councillors.
- (2) The general manager is entitled to attend a meeting of any other Council committee and may, if a member of the committee, exercise a vote.
- (3) The general manager may be excluded from a meeting of Council or a Council committee while the Council or committee deals with a matter relating to the standard of performance of the general manager or the terms of the employment of the general manager.

[section 376]

#### **4.3 Presence of councillors at council meetings**

- (1) A councillor cannot participate in a meeting of Council unless personally present at the meeting.

[clause 235 of the Regulation]

*Note: This means that a councillor cannot appoint a proxy to be present at a meeting on their behalf.*

- (2) Present at the meeting is classified as being in the Council chamber while the meeting is in progress.

[Council Policy]

*Note: A councillor who has declared a pecuniary interest in a matter before a Council meeting must not be present at, or in the sight of, the meeting while the matter is being considered – see section 8.4(3) of this Code and section 451 of the Act.*

#### **4.4 Leave of absence from council meetings**

- (1) A councillor who is unable to attend a meeting of Council should apply for leave of absence from the Council.

[Council Policy]

- (2) A councillor's application for leave of absence from a council meeting should, if practicable, be lodged in writing with the general manager, state the reasons for the leave,



and identify (by date) the meeting or meetings from which the councillor intends to be absent.

[Council Policy based on clause 235A of the Regulation]

- (3) A councillor applying for a leave of absence from a meeting of Council does not need to make the application in person and Council may grant such leave in the absence of that councillor.

[section 234]

- (4) A councillor who intends to attend a council meeting despite having been granted leave of absence should, if practicable, give the general manager at least 2 days' notice of his or her intention to attend.

[clause 235A of the Regulation]

- (5) If a councillor attends a council meeting (whether or not an ordinary meeting) despite having been granted leave of absence, the leave of absence is taken to have been rescinded as regards any future council meeting.

- (6) Clause 4.4(5) of this Code does not prevent Council from granting further leave of absence in respect of any future council meeting.

- (7) A councillor may lose their civic office if they are absent from 3 consecutive ordinary meetings of Council (unless the councillor is absent because he or she has been suspended from office under section 482 of the Act) without:

(a) prior leave of the council, or

(b) leave granted by Council at any of the meetings concerned.

[Council Policy based on section 234]

*Note: Tendering an apology at a council meeting is not the same as being granted leave of absence by Council. The acceptance of an apology by Council is simply an acknowledgement of the courtesy of the person who tendered it for notifying the meeting that they are unable to attend. By contrast, a leave of absence is a formal permission granted by way of council resolution to a councillor excusing that councillor's attendance at a particular meeting.*

*For absences from committee meetings see section 20.12 of this Code.*

## **5. Quorum at Meetings**

### **5.1 What is the quorum for a meeting**

- (1) The quorum for a meeting of Council is a majority of the councillors who hold office for the time being and are not suspended from office.

[section 368]

### **5.2 What happens when a quorum is not present**

*Note: Without a quorum at a meeting decisions cannot be made and any action taken will have no legal validity. The councillors present can if they wish make informal recommendations to council regarding matters on the agenda, to be considered at a later council meeting where quorum is present (see section 5.3 of this Code).*

- (1) A meeting of Council must be adjourned if a quorum is not present:
- (a) within half an hour after the time designated for the holding of the meeting; or
  - (b) at any time during the meeting.
- (2) In either case, the meeting must be adjourned to a time, date and place fixed:
- (a) by the chairperson; or
  - (b) in his or her absence – by the majority of the councillors present; or
  - (c) failing that, by the general manager.
- (3) The general manager must record in Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of Council, together with the names of the councillors present.

[clause 233 of the Regulation]

- (4) If so many councillors declare a pecuniary interest in a matter that the meeting is unable to form a quorum to deal with the business before it, the councillors with the interest may apply to the Minister to allow them to participate in the discussion and the vote on that matter (see section 8.3(5) of this Code and section 458 of the Act). Formal consideration of the matter giving rise to the pecuniary interests is to be adjourned until such time as quorum is restored.

[Council Policy based on section 458]

### **5.3 Can a decision be made at a meeting where no quorum is present**

- (1) A quorum of councillors must be present before a council decision can be validly made.
- (2) However, there is nothing preventing councillors at a meeting where there is no quorum from making an informal recommendation to council regarding the matters on the agenda. The informal recommendation may then be considered afresh at a later meeting when a quorum is present.

[Council Policy based on section 371]

## **6. Chairperson**

### **6.1 Who presides at meetings of council**

- (1) The mayor or, at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of Council.
- (2) If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present in accordance with section 6.2 of this Code presides at a meeting of Council.  
[section 369]
- (3) If the mayor declares an interest in any matter being dealt with at a Council meeting, the mayor will vacate the chair immediately prior to that item being considered and the deputy mayor will chair the meeting for the consideration of that item.

- (4) If both the mayor and deputy mayor declare an interest in any matter being dealt with at a Council meeting, the mayor will vacate the chair immediately prior to that item being considered and a chairperson will be elected to chair the meeting for the consideration of the item in accordance with section 6.2 of this Code.
- (5) All newly appointed chairpersons will within three months of their appointment complete a training course in chairing meetings.

[Council Policy]

## **6.2 Election of councillor to preside at meeting in the absence of the chairperson**

- (1) If no chairperson is present at a meeting of Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

*Note: Section 369(2) of the Act provides for a councillor to be elected to chair a meeting of a Council when the mayor and deputy mayor are absent.*

- (2) The election must be conducted:
  - (a) by the general manager or, in his or her absence, an employee of Council designated by the general manager to conduct the election; or
  - (b) if neither of them is present at the meeting or there is no general manager or designated employee – by the person who called the meeting or a person acting on his or her behalf.
- (3) If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- (4) For the purposes of clause 6.2(3), the person conducting the election must:
  - (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips; and

(b) then fold the slip so as to prevent the names from being seen, mix the slips and draw one of the slips at random.

(5) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

[clause 236 of the Regulation]

### **6.3 Recognising the authority of the chairperson**

(1) When the chairperson rises during a meeting of Council:

(a) any councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat; and

(b) every councillor present must be silent to enable the chairperson to be heard without interruption.

[clause 237 of the Regulation]

(2) When addressing a meeting of Council, councillors and all other persons must, unless the chairperson states otherwise:

(a). stand; and

(b). direct their address through the chairperson.

(3) Councillors and all other persons attending a meeting of Council shall at all times show respect to, and observe the ruling of, the chairperson.

(4) Despite clause 6.3(3) of this Code, a councillor may, through a motion of dissent, challenge a ruling made by the chairperson (see section 11.13 of this Code for motions of dissent).

[Council Policy]

## **7. Order of Business**

### **7.1 The order of business at meetings**

(1) At a meeting of Council (other than an extraordinary meeting), the general order of business is (except as provided by the Regulation) as fixed by clause 7.1(2) of this Code.

[clause 239 of the Regulation]

(2) The order of business for meetings of Council is to be:

1. Opening Prayer and Acknowledgment of Indigenous Heritage
2. Leaves of Absence and Apologies
3. Declarations of Interest
4. Confirmation of Minutes
5. Addresses to Council by Members of the Public
6. Mayoral Minute
7. Obituaries
8. Questions by Councillors With Notice
9. Questions by Councillors to the Mayor without Notice
10. Publications Received
11. Notice of Motions submitted by Councillors
12. Additional Matters for Consideration
13. Adoption of Committee Minutes
14. General Manager's Report
15. Petitions
16. Questions by Councillors for next Council Meeting
17. Urgent Business
18. Matters to be dealt with in Closed Session
19. Submission of Rescission Motions

[Council Policy]

## **7.2 Changing the order of business**

- (1) The order of business fixed under clause 7.1(2) of this Code may be altered if a motion to that effect is carried. Such a motion can be moved without notice.
- (2) Despite section 11.14 of this Code, only the mover of a motion referred to in clause 7.2(1) may speak to the motion before it is put.

[clause 240 of the Regulation]

## **8. Declarations of Interest**

### **8.1 Interests that do not have to be disclosed**

- (1) The following interests do not have to be disclosed for the purposes of this Section:
  - (a) an interest as an elector.

- (b) an interest as a ratepayer or person liable to pay a charge.
- (c) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this Section.
- (d) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Section.
- (e) an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not).
- (f) an interest of a member of a council committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee.
- (g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible uses of:
  - (i) land in which the person or a person, company or body referred to in section 443 (1)(b) or (c) of the Act has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise); or
  - (ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i), if the person or the person, company or body referred to in section 443 (1)(b) or (c) of the Act would by reason of the proprietary interest have a pecuniary interest in the proposal.

- (h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
- (i) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership.
- (j) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
  - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation;
  - (ii) security for damage to footpaths or roads;
  - (iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract.
- (k) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor).
- (l) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252 of the Act.
- (m) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor.



- (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person.
- (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or member of a council committee.
- (p) an interest arising from appointment of a councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.  
[section 448]
- (q) the political views of a councillor do not constitute a private interest.  
[section 7.12 of the Model Code]

## **8.2 Who has a pecuniary interest?**

- (1) For the purposes of this Section, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
  - (a) the person; or
  - (b) the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person; or
  - (c) a company or other body of which the person, or a nominee, partner or employer of the person, is a member.
- (2) However, a person is not taken to have a pecuniary interest in a matter as referred to in clause 8.2(1)(b) or (c) of this Code:
  - (a) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body; or
  - (b) just because the person is a member of, or is employed by, a council or a statutory body or is employed by the Crown; or
  - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person

has no beneficial interest in any shares of the company or body.

[section 443]

### **8.3 Declarations of pecuniary interests**

*Note: See section 27 of this Code for a definition of 'pecuniary interest'.*

- (1) A councillor or member of a Council committee who has a pecuniary interest in any matter with which Council is concerned and who is present at a meeting of Council or Council committee at which the matter is being considered must disclose the interest and the nature of the interest to the meeting as soon as practicable.
- (2) The councillor or member must not be present at, or in sight of, the meeting of Council or Council committee:
  - (a) at any time during which a matter in which the councillor has a pecuniary interest is being considered or discussed by Council or a Council committee; or
  - (b) at any time during which Council or a Council committee is voting on any question in relation to the matter.
- (3) A councillor or a member of a Council committee is not prevented by this section from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or member has an interest in the matter of a kind referred to in clause 8.1(1) of this Code and section 448 of the Act.

[Council Policy based on section 451]

*Note: The Code of Conduct for Councillors adopted by Council may also impose obligations on councillors.*

- (4) A person does not breach clause 8.5(1) of this Code if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

[section 457]

- (5) The Minister may, conditionally or unconditionally, allow a councillor or a member of a Council committee who has a pecuniary interest in a matter with which Council is

concerned to be present at a meeting of Council or Council committee to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- (a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business; or
- (b) that it is in the interests of the electors for the area to do so.

[section 458]

- (6) If a disclosure of a pecuniary interest is made at a Council or committee meeting by a councillor, both the disclosure and the nature of the interest must be recorded in the minutes of the meeting.

[Council Policy based on Part 7 of the Model Code]

#### **8.4 Declarations of non-pecuniary interests**

- (1) A councillor or a member of a Council committee who has a non-pecuniary conflict of interests, whether significant or less than significant, in any matter with which Council is concerned and who is present at a meeting of Council or Council committee at which the matter is being considered must disclose the interest and the nature of the interest to the meeting as soon as practicable. Such a disclosure constitutes a disclosure in writing for the purposes of clause 8.6(1) of this Code.
- (2) If a councillor or a member of a Council committee has declared a non-pecuniary conflict of interests, how the conflict is managed will depend on whether or not it is significant. A non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:
  - (a) a relationship between a Council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household;

- (b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship;
  - (c) an affiliation between a Council official and an organisation, sporting body, club, corporation or association that is particularly strong;
  - (d) anyone “whose affairs are closely linked to yours where there may be some type of direct or indirect beneficial relationship” (ICAC, *Managing Conflicts of Interest in the Private Sector*, November 2004, p 46).
- (3) If a councillor or a member of a Council committee has disclosed that a significant non-pecuniary conflict of interests exists, they must manage it in one of two ways:
- (a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official;
  - (b) have no involvement in the matter by leaving the room in which the meeting is taking place and not taking part in any debate or vote on the issue as if the provisions in section 451(2) of the Act apply. Leaving the room is necessary because to remain in the presence of the meeting but refrain from voting is taken to be a vote against the motion (see clause 251 of the General Regulation and section 15.2(1) of this Code).
- (4) If a councillor or a member of a Council committee determines that a non-pecuniary conflict of interests is less than significant and does not require further action, they must provide an explanation of why they consider that the conflict does not require further action in the circumstances.
- (5) If a disclosure of a non-pecuniary interest, whether significant or less than significant, is made at a Council or Committee meeting by a councillor, both the disclosure and the nature of the interest must be recorded in the minutes of the meeting.

[Council Policy based on Part 7 of the Model Code]

## **8.5 Political donations exceeding \$1,000**

- (1) Councillors should note that matters before Council involving political or campaign donors may give rise to a non-pecuniary conflict of interests.
- (2) Councillors should take all reasonable steps to ascertain the source of any political contributions that directly benefit their election campaigns. For example, councillors should have reasonable knowledge of contributions received by them or their “official agent” (within the meaning of the Election Funding Act 1981) that directly benefit their election campaign. If the knowledge of contributions is not directly held by councillors but is held by their “official agent”, councillors will have complied with this Code if they have made reasonable efforts to request and obtain the knowledge from their “official agent”.
- (3) Where a councillor or the councillor’s “official agent” has received “political contributions” or “political donations”, as the case may be, within the meaning of the Election Funding Act 1981, exceeding \$1,000 which directly benefit their campaign:
  - (a) from a political or campaign donor or related entity in the previous four years, and
  - (b) where the political or campaign donor or related entity has a matter before Council,then the councillor must declare a significant non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests by having no involvement in the matter in accordance with clause 8.4(3)(b) of this Code.
- (4) Councillors should note that political contributions below \$1,000, or political contributions to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interests. Councillors should determine whether or not such conflicts are significant and take the appropriate action to manage them.
- (5) If a councillor has received “political contributions” or “political donations” of the kind referred to above, that councillor is not prevented from participating in a decision to delegate Council’s decision-making role to Council staff or appointing another person or body to make the decision in accordance with the law.

[Council Policy based on Part 7 of the Model Code]

## **8.6 Declarations made prior to a meeting**

- (1) A councillor or a member of a Council committee who has a pecuniary or non-pecuniary (significant or less than significant) conflict of interests in a matter proposed to be dealt with at a Council or committee meeting must disclose the interest and the nature of the interest to the general manager in writing as soon as practicable (see clause 8.4(1) of this Code).
- (2) If a disclosure such as that referred to in clause 8.6(1) of this Code occurs prior to the meeting at which the matter is proposed to be dealt with and the councillor or member of a Council committee making the disclosure is present at the meeting, that person must disclose the interest and the nature of the interest at the meeting.
- (3) If a disclosure such as that referred to in clause 8.6(1) of this Code occurs prior to the meeting at which the matter is proposed to be dealt with and the councillor or member of a Council committee making the disclosure is not present at the meeting, the interest does not have to be disclosed at the meeting.

[Council Policy]

## **8.7 General declarations**

- (1) A general notice given to the general manager in writing by a councillor or a member of a Council committee to the effect that the councillor or member, or the councillor's or member's spouse, de facto partner or relative is:

- (a) a member, or in the employment of a specified company or other body; or

- (b) a partner, or in the employment of a specified person,

is, unless and until the notice is withdrawn, sufficient disclosure of the councillor's or member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by Council or a Council committee after the date of the notice.

[section 454]

## **8.8 Declarations by persons advising council**

- (1) A person who, at the request or with the consent of Council or a Council committee, gives advice on any matter at any meeting of Council or Council committee must disclose any pecuniary interest the person has in the matter to the meeting at the time the advice is given.
- (2) The person is not required to disclose the person's interest as an adviser.

[section 456]

## **9. Mayoral Minutes**

### **9.1 Moving mayoral minutes**

- (1) If the mayor is the chairperson at a meeting of Council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of Council or of which Council has official knowledge.
- (2) Such a minute, when put to the meeting, takes precedence over all business on Council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of the minute without the motion being seconded.
- (3) A recommendation made in a minute of the chairperson (being the mayor) or in a report made by a Council employee is, so far as adopted by Council, a resolution of Council.

[clause 243 of the Regulation]

*Note: Mayoral minutes should not be used to introduce, without notice, matters that are routine, not urgent, or need research or a lot of consideration by councillors before coming to a decision. These types of matters would be better placed on the agenda, with the usual period of notice given to the councillors.*

## **10. Addresses to Council**

### **10.1 Addresses to council by members of the public**

- (1) Council permits members of the public to address Council and Council committee meetings. A person wishing to address a meeting must contact staff in Council's Governance Section by 3.00pm on the day of the meeting and provide their name, their contact details, the item they wish to speak about and whether they are speaking in support of or against the item.
- (2) Late requests to address Council or a Committee meeting and requests received after the commencement of a Council or Committee meeting will be determined by the chairperson.
- (3) The mayor or chairperson will call members of the public to address the meeting in accordance with the order of business. The address should be for no more than 3 minutes duration. If there are 2 or more people speaking on the same matter, they must share the 3 minutes.
- (4) The address must relate to the business before the meeting and the mayor or chairperson will call to order any member of the public who fails to comply with this requirement. If the member of the public addressing the meeting fails to comply with the mayor or chairperson's call to order, the mayor or chairperson may withdraw that person's right to address the meeting.
- (5) Members of the public may address the meeting on matters relating to a petition brought before Council subject to clause 10.1(4) of this Code.
- (6) Councillors should be addressed as 'Councillor [followed by their last name]'. If the chairperson is the mayor he or she should be addressed as 'Mr Mayor' or 'Madam Mayor'. When the chairperson is not the mayor they should be addressed as Mr or Madam Chair.

[Council Policy]



## **10.2 Representations by members of the public to close part of the meeting**

- (1) A representation at a Council or Council committee meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.
- (2) That period is as fixed by resolution of Council made at the time the meeting is to be closed. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.

[Council Policy based on clause 252 of the Regulation]

## **11. Motions and Amendments**

### **11.1 What is a motion**

- (1) A motion is a proposal to be considered by Council at a meeting. It is a request to do something or express an opinion about something. A motion formally puts the subject of the motion as an item of business before the meeting.

[Council Policy]

### **11.2 What is an amendment**

- (1) An amendment is a change to the motion before the council, and takes place while that motion is being debated. An amendment to a motion must be put forward in a motion itself.

[Council Policy]

### **11.3 How should motions be worded**

- (1) A motion should start with the word 'That', for example, "That Council receive and note the report".
- (2) Motions are usually written in a positive sense so that a 'yes' vote indicates support for action, and a 'no' vote indicates that no action should be taken. A motion should

be full and complete so that when the motion or resolution is read in future its intention is clear.

- (3) Motions should be clear and concise. Numbered paragraphs should be used to make the motion easier to understand.

[Council Policy]

#### **11.4 Motions and amendments to be submitted in writing**

- (1) All motions and amendments moved at a Council or Committee meeting are to be submitted in writing to the general manager or, in the absence of the general manager, a Council employee nominated by the general manager, and the chairperson at the time they are moved so that their intent can be clearly understood.

[Council Policy]

#### **11.5 Notice of motion**

- (1) Notice of Motions for ordinary meetings of Council should be submitted to the general manager no later than 3.00pm on the second Friday before the meeting.
- (2) Notice of Motions for extraordinary meetings of Council should be submitted to the general manager as soon as possible after a decision has been made to request a meeting.

[Council Policy]

#### **11.6 Notice of motion in absence of mover**

- (1) In the absence of a councillor who has placed a Notice of Motion on the agenda for a meeting of Council:
  - (a) any other councillor may move the motion at the meeting; or
  - (b) the chairperson may defer the motion until the next meeting of Council at which the motion can be considered.

[clause 245 of the Regulation]

### **11.7 Withdrawing a notice of motion**

- (1) A Notice of Motion may be withdrawn from an agenda by the councillor or councillors who gave notice of the motion.
- (2) However, this may only be done at the meeting to which the motion was submitted for consideration.
- (3) A resolution of Council is not required to withdraw a Notice of Motion.

[Council Policy]

### **11.8 Moving motions and subsequent motions**

- (1) At the meeting any councillor may move any lawful motion. The motion must be moved at the commencement of the councillor's speech. A councillor may only speak to their motion after they have moved it.

[Council Policy]

### **11.9 Moving foreshadowed motions**

- (1) Any councillor may, after a motion has been moved and seconded, foreshadow an intention to move a further motion before the motion before Council has been voted on.
- (2) It is out of order to propose a foreshadowed motion that is, in effect, similar to the one already before Council.

[Council Policy]

### **11.10 Moving amendments and subsequent amendments**

- (1) Any councillor may move an amendment to a motion. The amendment must be moved at the commencement of the councillor's speech. A councillor may only speak to their amendment after they have moved it.
- (2) If an amendment is carried it becomes the substantive motion.
- (3) If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected

[Council Policy]

amendment was moved, and so on, but no more than one motion and one proposed amendment can be before Council at any one time.

[clause 247 of the Regulation]

### **11.11 Moving foreshadowed amendments**

- (1) Any councillor may, when a motion and an amendment have been moved and seconded, foreshadow an intention to move a further amendment before the first amendment before Council has been voted on.
- (2) If the amendment is rejected the foreshadowed amendment may be moved and any intention to move a further foreshadowed amendment outlined and so on until the matter is decided.

[Council Policy]

### **11.12 Seconding motions and amendments**

- (1) A motion or an amendment cannot be debated unless or until it has been seconded. The exceptions are that a Mayoral Minute does not require a seconder (see Section 9 of this Code); or when a councillor moves a motion that a motion or amendment before Council be now put (see Section 11.15 of this Code).

[clause 246 of the Regulation]

### **11.13 Motions of dissent**

- (1) A councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.

[clause 248 of the Regulation]

*Note: A motion of dissent requires a seconder (see clause 11.12(1) of this Code).*

- (2) After the business before the meeting has been suspended the chairperson may continue to Chair the meeting during the dissent motion or may vacate the chair, in which case the mayor, if not the original chair of the meeting, or the

deputy mayor will assume the chair until a decision is made on the motion of dissent.

- (3) If the mayor or deputy mayor is absent a councillor can be elected to chair this part of the meeting by the councillors present in accordance with section 6.2 of this Code.
- (4) Despite section 11.14 of this Code, only the mover of a motion of dissent and the chairperson against whom the motion of dissent was moved can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

*Note: There is no debate on a motion of dissent. The mover of the motion puts his or her case followed by the chairperson against whom the motion of dissent was moved. The motion should then be put to the vote immediately.*

- (5) After a decision on the motion of dissent has been made, the original chairperson will resume the chair.
- (6) If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.

[Council Policy based on clause 248 of the Regulation]

#### **11.14 Limitations as to number of speeches on motions and amendments**

- (1) A councillor who, during a debate at a meeting of Council, moves an original motion has the right of general reply to all observations that are made by another councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- (2) A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- (3) A councillor must not, without the consent of Council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a councillor who claims to have been

misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

[clause 250 of the Regulation]

### **11.15 Moving that a motion or amendment be now put**

- (1) Despite section 11.14 of this Code, a councillor may move that a motion or an amendment be now put:
  - (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it; or
  - (b) if at least 2 councillors have spoken in favour of the motion or amendment and at least 2 councillors have spoken against it.
- (2) The chairperson must immediately put to the vote, without debate, a motion moved under clause 11.15(1) of this Code. A seconder is not required for such a motion.
- (3) If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under clause 11.14(1) of this Code.
- (4) If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or amendment to be resumed.

[clause 250 of the Regulation]

### **11.16 Chairperson's duty with respect to motions**

- (1) It is the duty of the chairperson at a meeting of Council to receive and put to the meeting any lawful motion that is brought before the meeting.
- (2) The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.

- (3) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected.

[clause 238 of the Regulation]

- (4) At the time a motion or amendment is moved the chairperson must ensure the motion or amendment is announced to the meeting in its entirety so its intent can be clearly understood.

[Council Policy]

## **12. Questions**

### **12.1 Questions by councillors with notice**

- (1) Each councillor may submit up to a maximum of 3 questions for inclusion under the 'Questions by Councillors with Notice' section of the Council agenda.

However, should a councillor wish to ask the mayor a question without notice under section 12.2 of this Code they may submit up to a maximum of 2 questions with notice.

- (2) Questions must relate to business currently before Council.
- (3) Questions must be submitted in writing to the general manager no later than 3.00pm on the second Friday before the meeting.
- (4) Matters which may be routinely dealt with administratively should not be made the subject of a question with notice.
- (5) Each question must be put directly and succinctly.
- (6) The chairperson must not permit discussion on any reply to a question with notice.
- (7) Supplementary questions are not permitted.
- (8) Should the councillor who submitted a question want to ask it in a form different to that printed on the agenda, he or she should seek the meeting's leave to withdraw the original question and ask the question in its revised form, with an explanation as to why the change is considered necessary.
- (9) The revised question must have the same subject matter as the question printed on the agenda.

(10) The revised question shall be considered as a replacement for the original question and shall not be counted as an additional question by the councillor.

(11) Should a question with notice be taken on notice by staff at the meeting the staff member concerned must forward his or her reply to the question to all councillors within 3 working days of the meeting where practicable.

[Council Policy]

## **12.2 Questions by councillors to the mayor without notice**

(1) Each councillor may ask the mayor a maximum of one question under the 'Questions by Councillors to the Mayor without Notice' section of the Council agenda.

(2) Each question must be put directly and succinctly.

(3) The chairperson must not permit discussion on any reply to a question to the mayor without notice under this section.

(4) Supplementary questions are not permitted.

[Council Policy]

## **12.3 Questions about matters on the agenda**

(1) A councillor:

(a) may, through the chairperson, put a question to another councillor about a matter on the agenda while the matter is being considered by the meeting; and

(b) may, through the general manager, put a question to a council employee about a matter on the agenda while the matter is being considered by the meeting.

(2) However, a councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.

(3) The councillor must put every such question directly, succinctly and without argument.



- (4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a councillor or council employee under this section.

[Council Policy based on clause 249 of the Regulation]

## **13. Keeping Order at Meetings**

### **13.1 Points of order**

- (1) The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- (2) A councillor who believes that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter by raising a point of order.
- (3) A councillor, having raised a point of order, must at once:
- (a) state the provision or provisions of this Code that have been breached; and
  - (b) state why the councillor is in breach of the provision(s).
- (4) A point of order may be raised for any of the following irregularities in procedure:
- (a) a quorum is not present; or
  - (b) the motion before the meeting lies outside the scope of the subject of debate; or
  - (c) the speaker's remarks are irrelevant to the motion; or
  - (d) the speaker's remarks are repetitive; or
  - (e) any act of disorder referred to in clause 13.2(1) of this Code; or
  - (f) a failure to comply with Council's Code of Meeting Practice.

*Note: Contradictions, personal explanations and statements of fact and/or opinion dealing with the subject are NOT valid points of order.*

- (5) The chairperson must rule on a point of order immediately after it is raised but, before doing so, may invite the opinion of the meeting.
- (6) The chairperson's ruling must be obeyed without further discussion unless a motion dissenting from the ruling is passed (see section 11.13 of this Code).  
[Council Policy based on clause 255 of the Regulation]

### **13.2 Acts of disorder by councillors**

- (1) A councillor commits an act of disorder if the councillor, at a meeting of a Council or a committee of Council:
  - (a) contravenes the Act or any regulation in force under the Act; or
  - (b) assaults or threatens to assault another councillor or person present at the meeting; or
  - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of Council or a Council committee, or addresses or attempts to address Council or a committee on such a motion, amendment or matter; or
  - (d) insults or makes personal reflections on or imputes improper motives to any other councillor; or
  - (e) conducts conversations with councillors or otherwise interrupts whilst a councillor is speaking on a matter before Council; or
  - (f) whilst a member of the public is addressing the meeting, does not remain silent and interrupts the speaker; or
  - (g) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring Council or a Council committee into contempt.
- (2) The chairperson may require a councillor:
  - (a) to apologise without reservation for an act of disorder referred to in clause 13.2(1)(a), (b), (e) and (f) of this Code; or

- (b) to withdraw a motion or an amendment referred to in clause 13.2(1)(c) of this Code and where appropriate, to apologise without reservation; or
  - (c) to retract and apologise without reservation for an act of disorder referred to in clause 13.2(1)(d) and (g) of this Code.
- (3) A councillor may, as provided by section 4.1 of this Code, be expelled from a meeting of Council for having failed to comply with a requirement under clause 13.2(2) of this Code. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.
- [Council Policy based on clause 256 of the Regulation]

### **13.3 Acts of disorder by members of the public**

- (1) A member of the public commits an act of disorder at a meeting if he or she:
- (a) conducts conversations with councillors or otherwise interrupts whilst a councillor is speaking on a matter before Council; or
  - (b) whilst a member of the public is addressing the meeting, does not remain silent and interrupts the speaker or disrupts or attempts to disrupt the maintenance of order.
  - (c) uses or has used an audio and/or image recording device in contravention of clause 17.4(1) of this Code.
- (2) The chairperson may require a member of the public to retract and apologise without reservation for such an act of disorder.
- (3) A member of the public may, as provided by section 4.1 of this Code, be expelled from a meeting of the Council for engaging in or having engaged in an act of disorder at the meeting.
- [Council Policy based on clause 257 of the Regulation]

### **13.4 Adjourning a meeting to deal with acts of disorder**

- (1) If disorder occurs at a meeting of Council, the chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. Council, on reassembling must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

[clause 257 of the Regulation]

### **13.5 Power to remove persons from meeting**

- (1) If a councillor or a member of the public fails to leave the place where a meeting of Council is being held:
  - (a) immediately after Council has passed a resolution expelling the councillor or member of the public from the meeting; or
  - (b) where Council has authorised the person presiding at the meeting to exercise the power of expulsion – immediately after being directed by the person presiding to leave the meeting;

a police officer, or any person authorised for the purpose by Council or person presiding, may, by using only such force as is necessary, remove the councillor or member from that place and, if necessary, restrain the councillor or member from re-entering that place.

[clause 258 of the Regulation]

- (2) If a meeting or part of a meeting of a committee of Council is closed to the public in accordance with section 18 of this Code, any person who is not a councillor may be expelled from the meeting as provided by section 4.1 of this Code.
- (3) If any such person referred to in clause 13.5(2) of this Code, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council, committee or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that

place and, if necessary, restrain the person from re-entering that place.

[clause 271 of the Regulation]

## **14. Adjourning a Meeting**

### **14.1 Adjourning a meeting**

- (1) A meeting of Council or a committee of Council may be adjourned:
  - (a) for a short break where a meeting has been in session for more than two hours.
  - (b) if the business listed on the meeting agenda has not been dealt with by 11.30pm.
  - (c) for a period of not more than 15 minutes to restore order (see section 13.4 of this Code).
  - (d) at any time during the meeting.
- (2) A meeting of Council or a committee of Council must be adjourned if a quorum is not present (see section 5.2 of this Code).
- (3) In any case, the time, date and place the meeting is to reconvene must be fixed and announced:
  - (a) by the chairperson; or
  - (b) in his or her absence – by the majority of the councillors present; or
  - (c) failing that, by the general manager.
- (4) A meeting of Council or a committee of Council may only be adjourned by resolution of the meeting (ie, a formal motion to adjourn the meeting must be moved, seconded and carried on a vote). This clause does not apply to meetings where a quorum is not present.

[Council Policy]

## **15. Voting**

### **15.1 Voting entitlements of councillors**

- (1) Each councillor is entitled to one vote.
- (2) However, the person presiding at a meeting of Council has, in the event of an equality of votes, a second or casting vote (see section 15.3 of this Code for provisions regarding the casting vote).

[section 370]

### **15.2 Voting at council meetings**

- (1) A councillor who is present at a meeting of Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- (2) If a councillor who has voted against a motion put at a Council meeting so requests at the meeting, the General manager, or an officer delegated by the general manager, must ensure that the councillor's dissenting vote is recorded in the Council's minutes.
- (3) The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 councillors rise and demand a division.
- (4) When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the minutes.
- (5) Voting at a Council meeting, including voting in an election at such meeting, is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.  
[clause 251 of the Regulation]
- (6) A councillor cannot vote at a meeting of Council unless personally present at the meeting.  
[Council Policy based on clause 235 of the Regulation]

*Note: Clause 15.2(6) means that a councillor cannot cast a proxy vote on behalf of a councillor not at the meeting.*

### **15.3 Casting vote of chairperson**

- (1) Each councillor is entitled to one vote on a motion before Council, but in the event of an equality of votes the chair of the meeting has a second or casting vote (see section 15.1 of this Code. See section 19.9(3) of this Code for casting vote of a committee chairperson).
- (2) There is nothing in the Act or Regulation about how a casting vote is to be used. It is a matter for the chairperson as to how they will vote.
- (3) The chairperson does not have to vote the same way with their casting vote as they did with their original vote.
- (4) There is no obligation on the chairperson to use their casting vote.
- (5) Failure to exercise a casting vote is not taken as a vote against the motion.
- (6) The chairperson must immediately inform the meeting when they have exercised their casting vote.
- (7) Should the chairperson decide not to exercise their casting vote when the vote is tied, the motion being voted upon must be declared lost since a majority of councillors have not voted in favour of the motion (see clause 16.1(1) of this Code).

[Council Policy based on section 370(2)]

### **15.4 Recording a division and show of hands**

- (1) A division will be recorded in the minutes of the meeting as the names of those councillors who voted for a motion or amendment and the names of those councillors who voted against the motion or amendment.
- (2) Upon a division, the chairperson will clearly state to the meeting the names of those councillors who voted for a motion or amendment and the names of those councillors who voted against the motion or amendment. The general manager must ensure that the names are respectively recorded in the minutes.
- (3) A show of hands will be recorded in the minutes of the meeting as the number of councillors who voted for a

motion or amendment and the number of councillors who voted against the motion or amendment.

- (4) Upon a show of hands the chairperson will clearly state to the meeting the number of councillors who voted for a motion or amendment and the number of councillors who voted against the motion or amendment.

[Council Policy based on clause 251 of the Regulation]

### **15.5 Recording of voting on planning matters**

- (1) In this section, **planning decision** means a decision made in the exercise of a function of a council under the *Environmental Planning and Assessment Act 1979*:

(a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but

(b) not including the making of an order under Division 2A of Part 6 of that Act.

- (2) The general manager is required to keep a register containing, for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.

- (3) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the council or a council committee (see section 15.2(4) and 15.4(2) of this Code for procedures relating to divisions).

- (4) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.

- (5) This section extends to a meeting that is closed to the public.

[section 375A]



## **16. Decisions of Council**

### **16.1 What constitutes a decision of council**

- (1) A decision supported by a majority of the votes at a meeting of Council at which a quorum is present is a decision of Council.

[section 371]

### **16.2 What is a resolution of council**

- (1) A resolution is a motion that has been passed by the majority of councillors at the meeting. While in practice it means the 'council decision', the word resolution also indicates the process by which the decision was made.

[Council Policy]

### **16.3 Rescinding or altering decisions of council**

- (1) A decision of Council may only be altered or rescinded by a motion. Notice of the motion must be given in accordance with clauses 16.3(2) or 16.3(4) of this Code.

*Note: Clause 16.3(1) means that, after making a decision on an item of business, it is a breach of the Act for a meeting of Council or a Council committee to then recommit that item at the same meeting and make a new decision. Once a decision has been made the only way it can be changed in any way (whether altered or rescinded) is in accordance with Section 372 of the Act, ie, there must be a notice of motion, signed by three councillors if less than three months has elapsed since the decision was made, which is to be dealt with as a new motion.*

- (2) At the meeting, written notice of a rescission motion must be handed to the general manager, or in the general manager's absence, a Council employee nominated by the general manager, before the meeting is closed. On receipt of such notice the general manager, or the general manager's nominee, will announce it to the meeting so that interested parties are aware that there may be a reconsideration of the matter.
- (3) If notice of a rescission motion is given at the meeting at which the decision was made, the decision must not be

carried into effect until the rescission motion has been dealt with.

- (4) If a meeting has closed, written notice of a rescission motion must be given to the general manager as soon as is practicable. On receipt of such notice the general manager will advise relevant Council officers that there may be a reconsideration of the matter.
- (5) If notice of a rescission motion is not given before the close of the meeting at which the decision was made, the decision may be carried into effect before the rescission motion has been dealt with. However, the general manager will not carry the decisions from a meeting into effect until 10am on the next working day following the meeting. A notice of a rescission motion received by the general manager before this time will stop the decision being carried into effect until the rescission motion has been dealt with.
- (6) If a motion has been resolved in the negative by Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with section 16.3(7) of this Code.
- (7) A notice of motion to alter or rescind a decision, and a notice of motion which has the same effect as a motion which has been resolved in the negative by Council, must be signed by 3 councillors if less than 3 months has elapsed since the decision was made, or the motion was resolved in the negative, as the case may be.
- (8) If a rescission motion has been resolved in the negative, or if a motion which has the same effect as a motion previously resolved in the negative, is resolved in the negative, no similar motion may be brought forward within 3 months. This clause may not be evaded by substituting a motion differently worded, but in principle the same.  
[Council Policy based on section 372]
- (9) A motion to which this section applies may be moved on the report of a committee of Council and any such report must be recorded in the minutes.  
[section 372]
- (10) The provisions of this section concerning motions resolved in the negative do not apply to motions of adjournment.

- (11) If notice of a rescission motion is given at the meeting at which the decision was made, the rescission motion will generally be dealt with at the next Council meeting. However, the meeting may resolve to deal with the rescission motion at the same meeting at which the notice was given as an item of urgent business in accordance with section 3.5 of this Code.

[Council Policy based on section 372]

#### **16.4 Rescinding or altering decisions of a council committee**

- (1) The provisions of section 16.3 of this Code apply to decisions made by Council's standing committees, with the following exception:

- (a) Written notice of a motion rescinding a decision of a standing committee may only be lodged by members of the committee.

[Council Policy]

#### **16.5 Rescinding or altering a resolution granting development consent**

- (1) Council may rescind a resolution granting development consent. However, a motion to rescind such a resolution should generally only be considered if the applicant has not been formally advised of the consent.

[Council Policy]

*Note: Under section 83 of the Environmental Planning and Assessment Act 1979 development consent has effect from the date endorsed on the written notification. Once the applicant has been formally advised of Council's decision, there may be issues of compensation to the applicant if consent is later rescinded.*

#### **16.6 Certain circumstances do not invalidate council decisions**

- (2) Proceedings at a meeting of Council or a Council committee are not invalidated because of:

- (a) a vacancy in a civic office; or

- (b) a failure to give notice of the meeting to any councillor or committee member; or
- (c) any defect in the election or appointment of a councillor or committee member; or
- (d) a failure of a councillor or a committee member to disclose a pecuniary interest at a Council or committee meeting in accordance with Section 8.3 of this Code, or
- (e) a failure to comply with Council's Code of Meeting Practice.

[section 374]

## **17. Minutes**

### **17.1 Council minutes**

- (1) The Council must ensure that full and accurate minutes are kept of the proceedings of a meeting of Council.
- (2) The minutes must, when they have been confirmed at a subsequent meeting of Council, be signed by the person presiding at that subsequent meeting.
 

[section 375]
- (3) The general manager must ensure that the following matters are recorded in Council's minutes:
  - (a) details of each motion moved at a Council meeting and any amendments moved to it.
  - (b) the names of the mover and seconder of the motion or amendment.
  - (c) whether the motion or amendment is passed or lost.
 

[clause 254 of the Regulation]
  - (d) the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of Council, together with the names of the councillors present.
 

[clause 233 of the Regulation]
  - (e) for each planning decision made at a meeting of the council or a council committee, the names of the councillors who supported the decision and the names

of any councillors who opposed (or are taken to have opposed) the decision.

[Council Policy]

- (4) A disclosure of a pecuniary or non-pecuniary, whether significant or less than significant, conflict of interests and the nature of the interest by a councillor at a meeting of Council or a Council committee in a matter proposed to be dealt with at the meeting, must be recorded in the minutes of the meeting.

[Council Policy based on section 453]

- (5) When a division on a motion or amendment is demanded the general manager must ensure that the names of those who vote for the motion or amendment and those who vote against the motion or amendment are respectively recorded in the minutes.

[clause 251 of the Regulation]

*Note: Minutes of meetings are not intended to be the equivalent of Parliament's Hansard, and are not required to record details of the debate that takes place on any motion.*

## **17.2 Inspection of council minutes**

- (1) An inspection of the minutes of Council or committee of Council is to be carried out under the supervision of the general manager or an employee of the Council designated by the general manager to supervise inspections of those minutes.

- (2) The general manager must ensure that the minutes of Council and any minutes of a committee of Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

[clause 272 of the Regulation]

- (3) Everyone is entitled to inspect the current version of:
- (a) agendas and business papers for Council and committee meetings (but not including business papers for matters considered when part of a meeting is closed to the public).
  - (b) minutes of Council and committee meetings, but restricted (in the case of any part of a meeting that is

closed to the public), to the resolutions and recommendations of the meeting.

[section 12]

- (4) Minutes of Council and Council's committee meetings are issued subject to confirmation at a subsequent meeting of Council and may be amended in the interim.

[Council Policy]

### **17.3 Minutes in evidence**

- (1) Every entry in the minutes of the business transacted at a meeting of Council and purporting to be signed by the person presiding at a subsequent meeting of Council is, until the contrary is proved, evidence:

- (a) that the business as recorded in the minutes was transacted at the meeting; and

- (b) that the meeting was duly convened and held.

[section 703]

### **17.4 Recording of council and committee meetings**

- (1) Council and other meetings as appropriate are to be audio recorded for the sole purpose of assisting with the preparation of minutes.
- (2) The recordings are to be kept for a period of three months and managed in accordance with the provisions of the Privacy and Personal Information Protection Act 1998, after which time they are to be destroyed.
- (3) The recordings are to be made available for listening on written request by any person. Copies of recordings will not be made available for any person.
- (4) The minutes of a meeting, once confirmed, prevail over any audio recording of the meeting.
- (5) A person may use an audio and/or image recording device to record the proceedings of a meeting of Council or a committee of Council only with the authority of Council or the Council committee.

- (6) A person may, as provided by section 4.1 of this Code, be expelled from a meeting of Council or a committee of a Council for using or having used an audio and/or image recording device in contravention of clause 17.4(1).
- (7) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by Council or person presiding may, by using only such force as is necessary, remove the first mentioned person from that place and, if necessary, restrain that person from re-entering that place.
- (8) In this section, an audio and/or image recording device includes a video camera and any electronic device capable of recording speech.  
[Council Policy based on clause 273 of the Regulation]

## **18. Closed Meetings/Confidential Business**

### **18.1 Parts of meeting that can be closed to the public**

- (1) Council or a Committee of Council, of which all members are councillors, may close to the public so much of its meeting as comprises the receipt or discussion of any of the following, as contained under section 10A(2) of the Local Government Act:
- (a) personnel matters concerning particular individuals.
  - (b) personal hardship of any resident or ratepayer.
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business.
  - (d) commercial information of a confidential nature that would, if disclosed:
    - i. prejudice the commercial position of a person who supplied it; or
    - ii. confer a commercial advantage on a competitor of Council;
    - iii. reveal a trade secret.

- (e) information that would, if disclosed, prejudice the maintenance of law.
  - (f) matters affecting the security of Council, councillors, Council staff and Council property.
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.
  - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.
- (2) Council, or a committee of Council of which all members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.
  - (3) Council or a committee of Council may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

[section 10A]

*Note: Representations by members of the public to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded. That period is as fixed by resolution of Council made at the time the meeting is to be closed (see section 10.2 of this Code and clause 252 of General Regulation).*

## **18.2 Limitations relating to the closure of parts of meetings to the public**

- (1) A meeting is not to remain closed during the discussion of anything referred to in section 10A(2) of the Local Government Act (see section 18.1(1) of this Code);
  - (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and



- (b) if the matter concerned is a matter other than a personal matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless Council or the Council committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.
- (2) A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A(2)(g) of the Act (see section 18.1(1)(g) of this Code) unless the advice concerns legal matters that:
  - (a) are substantial issues relating to a matter in which the Council or committee is involved; and
  - (b) are clearly identified in the advice; and
  - (c) are fully discussed in that advice.
- (3) If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3) of the Act and section 18.1(2) of this Code), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter is a matter referred to in section 10A(2) of the Act).
- (4) For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
  - (a) a person may misinterpret or misunderstand the discussion; or
  - (b) the discussion of the matter may:
    - i. cause embarrassment to Council or committee concerned or to councillors or to employees of Council, or
    - ii. cause a loss of confidence in Council or Council committee.
- (5) In deciding whether part of a meeting is to be closed to the public, Council or the Council committee concerned must

have regard to any relevant guidelines issued by the Director-General.

[section 10B]

### **18.3 Notice of closure not required in urgent cases**

- (1) Part of a meeting of Council or of a committee of Council of which all members are councillors may be closed to the public while Council or the Council committee considers a matter that has not been identified in the agenda for the meeting as a matter that is likely to be considered when the meeting is closed, but only if:
  - (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in section 10A(2) of the Act (see section 18.1(1) of this Code) and;
  - (b) Council or the Council committee, after considering any representations made under section 10A(4) of the Act (see section 18.1(3) of this Code), resolves that further discussion of the matter:
    - i. should not be deferred (because of the urgency of the matter); and
    - ii. should take place in a part of the meeting that is closed to the public.

[section 10C]

### **18.4 Grounds for closing part of meeting to the public must be specified**

- (1) If Council decides to close part of a meeting to the public, the grounds on which the part of the meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.
- (2) The grounds to close a meeting must specify the following:
  - (a) the relevant provision of section 10A(2) of the Act.
  - (b) the matter that is to be discussed during the closed part of the meeting.
  - (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than

a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to public interest.

[section 10D]

### **18.5 Disclosure of information discussed during closed session**

- (1) If part of a meeting of Council or a committee of Council is closed to the public in accordance with section 18.1 of this Code, a person must not, without the authority of Council or the Council committee, disclose (otherwise than to Council or a councillor of Council) information with respect to the discussion at, or the business of the meeting.
- (2) Clause 18.5(1) does not apply to:
  - (a) the report of a committee of Council after it has been presented to Council; or
  - (b) disclosure made in any of the circumstances referred to in section 664(1)(a)-(e) of the Act; or
  - (c) disclosure made in circumstances prescribed by the regulations; or
  - (d) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with section 12 of the Act.

[section 664 (1A) and (1B)]

*Note: Disclosure of information from a closed meeting, other than as permitted by clause 18.5(2) of this Code, may attract a penalty of up to \$5500.00 – see section 664 of the Act.*

### **18.6 Resolutions made by council during closed session to be made public**

- (1) If a Council passes a resolution during a meeting or a part of a meeting that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting or that part of the meeting has ended.

[clause 253 of the Regulation]

## **19. Access to Meeting Documents**

### **19.1 Access to correspondence and reports**

- (1) Council and a Council committee of which all members are councillors must, during or at the close of a meeting or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to the meeting.
- (2) This section does not apply if the correspondence or reports:
  - (a) relate to a matter that was received or discussed; or
  - (b) were laid on the table at, or submitted in the meeting, when the meeting was closed to the public.
- (3) This section does not apply if Council or a Council committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in section 10A(2) of the Act (see section 18.1(1) of this Code), are to be treated as confidential.

[section 11]

### **19.2 Restricting access to correspondence and reports**

- (1) If the general manager or any other member of the staff of Council decides that access to a document or other information held by Council should not be given to the public or a councillor, the person concerned must provide Council with written reasons for the restriction.
- (2) The reasons must be publicly available.
- (3) Council must review any such restriction no later than 3 months after it is imposed.
- (4) Council must, at the request of any person made after the expiry of a period of 3 months after that review (or of a period of 3 months after the most recent of any subsequent reviews), carry out a further review of the restriction.
- (5) Council must remove the restriction if, at any time:

- (a) it finds that there are no grounds for the restriction; or
  - (b) access to the relevant document or other information is obtained under the Government Information (Public Access) Act 2009.
- (6) A review is not required under this section if the restriction concerned has been removed.

[section 12A]

### **19.3 Access to council records**

- (1) The general manager may allow or refuse to allow any councillor to inspect any record of Council that the councillor requests to see.
- (2) If the general manager refuses to allow a councillor to inspect any such record, the councillor may, at a meeting of Council, move for the production of the document. However, the councillor must give notice of intention to move the motion.
- (3) If the Council passes a motion for the production of a Council record, Council must ensure that the record:
  - (a) is produced immediately and laid on the table for inspection by the councillors; and
  - (b) is made available for inspection by any councillor at Council's offices on reasonable notice to the general manager during the Council's ordinary office hours on any day that is within 1 month after the passing of the motion.

[Council Policy]

## 20. Council Committees

*Note: All the provisions of this Code relating to meetings of Council, so far as they are applicable, extend to and govern the proceedings of Council's committees subject to section 20.9 of this Code.*

### 20.1 Committee of the whole

- (1) All the provisions of this Code relating to meetings of Council, so far as they are applicable, extend to and govern the proceedings of the Council when in Committee of the Whole, except the provision limiting the number and duration of speeches.
- (2) The general manager or, in the absence of the general manager, an employee of Council designated by the general manager is responsible for reporting to Council proceedings in Committee of the Whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- (3) Council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in Council's minutes. However, Council is not taken to have adopted the report until a motion for adoption has been made and passed.

[clause 259 of the Regulation]

*Note: Council may resolve itself into Committee of the Whole (commonly referred to as 'moving into committee') to consider any matter before Council (see section 373 of the Act). The purpose of taking the meeting into Committee of the Whole is to allow a matter to be discussed less formally, without strict adherence to the rules of debate and other procedural requirements. The extent to which a departure from those rules and requirements may be allowed is a matter for the Chair of the meeting. However, the provisions of this Code as to acts of disorder and disorderly conduct (see section 13 of this Code) would normally still apply.*

## **20.2 Procedure for moving into committee of the whole**

- (1) Council may move into Committee of the Whole only on a resolution of Council.
- (2) For Council to resolve itself into Committee of the Whole, a motion to that effect must be moved, seconded and declared carried.

[Council Policy]

## **20.3 Council may establish other committees**

- (1) Council may, by resolution establish such other committees as it considers necessary or expedient to assist in carrying out its functions.
- (2) A Council committee is to consist of the mayor and such other councillors as are elected by the councillors or appointed by Council.

[clause 260 of General Regulation]

- (3) A Council committee may also include in its membership such Council officers and members of the public as the Council may resolve.

[Council Policy]

## **20.4 Quorum for committees**

- (1) The quorum for a meeting of a Council committee is to be:
  - (a) such number of members as Council decides; or
  - (b) if Council has not decided a number – a majority of the members of the committee.

[clause 260 of the Regulation]

## **20.5 Specifying committee functions**

- (1) Council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions.

[clause 261 of the Regulation]

## **20.6 Structures and responsibilities of council committees**

*Note: The committees Council has established, with their functions and delegations should they have them, are contained in a separate document called 'Structures and Responsibilities of Council Committees and the Council Inspection Meeting'.*

## **20.7 Notice of committee meetings to be given**

- (1) The general manager must send to each councillor, at least 3 days before each meeting of the committee, a notice specifying:
  - (a) the time and place at which and the date on which the meeting is to be held; and
  - (b) the business proposed to be transacted at the meeting;
- (2) However, notice of less than 3 days may be given of a committee meeting called in an emergency.  
[clause 262 of the Regulation]

## **20.8 Chairperson and deputy chairperson of committees**

- (1) The chairperson of each committee of Council must be:
  - (a) the mayor; or
  - (b) if the mayor does not wish to be the chairperson of a committee, a member of the committee elected by Council; or
  - (c) if Council does not elect such a member, a member of the committee elected by the committee.
- (2) Council may elect a member of a committee of Council as deputy chairperson of the committee.
- (3) If neither the chairperson nor the deputy chairperson of a committee of Council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.



- (4) The chairperson is to preside at a meeting of a Council committee. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.  
[clause 267 of the Regulation]

## **20.9 Procedure in committees**

- (1) Subject to clause 20.9(3) of this Code, each committee of Council may regulate its own procedure by adopting its own code.
- (2) If a committee does not regulate its own procedure by adopting its own code, the procedures contained in this Code will apply.
- (3) Without limiting clause 20.9(1) of this Code, a committee of Council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.
- (4) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands).  
[clause 265 of the Regulation]
- (5) The provisions of the Act, the Regulation and this Code relating to the maintenance of order in Council meetings apply to meetings of committees of Council in the same way as they apply to meetings of Council.  
[clause 270 of the Regulation]

## **20.10 Reports of committees**

- (1) If in a report of a committee of Council distinct recommendations are made, the decision of Council may be made separately on each recommendation.
- (2) The recommendations of a committee of Council are, so far as adopted by the Council, resolutions of Council.
- (3) If a committee of Council passes a resolution or makes a recommendation during a meeting, or a part of a meeting, that is closed to the public the chairperson must:

- (a) make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and
- (b) report the resolution or recommendation to the next meeting of Council.

[clause 269 of the Regulation]

- (4) Reports of each meeting of Council's Standing Committees and those Community Committees that make recommendations to Council must be submitted to Council for adoption. The report of each committee meeting must be included on the agenda of the next Council meeting after the meeting of the committee, where practicable.

[Council Policy]

#### **20.11 Non-members attendance at committee meetings**

- (1) A councillor who is not a member of a committee of Council is entitled to attend, and to speak at a meeting of the committee.
- (2) However, the councillor is not entitled:
  - (a) to give notice of business for inclusion in the agenda for the meeting; or
  - (b) to move or second a motion at the meeting; or
  - (c) to vote at the meeting.

[clause 263 of the Regulation]

#### **20.12 Absence from committee meetings**

- (1) A member ceases to be a member of a committee if the member (other than the mayor):
  - (a) has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or
  - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.

- (2) Clause 20.12(1) of this Code does not apply if all of the members of Council are members of the committee.  
[clause 268 of the Regulation]

### **20.13 Committee minutes**

- (1) Each committee of Council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular, a committee must ensure that the following matters are recorded in the committee's minutes:
- (a) details of each motion moved at a meeting and any amendments moved to it;
  - (b) the names of the mover and seconder of the motion or amendment;
  - (c) whether the motion or amendment is passed or lost.  
[clause 266 of the Regulation]
- (2) The minutes of a committee meeting must, when they have been confirmed at a subsequent meeting of Council, be signed by the person presiding at that subsequent meeting.  
[Council Policy based on clause 266 of the Regulation and section 375]

## **21. Mayoral Elections**

### **21.1 Election of mayor by councillors**

- (1) The mayor is a person elected to the office of mayor by:
- (a) the councillors from among their number, unless there is a decision in force under Chapter 9 of the Local Government Act which provides for the election of the mayor by the electors.
  - (b) the electors, if such a decision is in force.
- [section 227]

### **21.2 For what period is the mayor elected**

- (1) A mayor elected by the councillors holds the office of mayor for 1 year, subject to the Act.
- (2) A mayor elected by the electors holds the office of mayor for 4 years, subject to the Act.
- (3) The office of mayor:
- (a) commences on the day the person elected to the office is declared to be so elected, and
  - (b) becomes vacant when the person's successor is declared to be elected to the office, or on the occurrence of a casual vacancy in the office.
- (4) A person elected to fill a casual vacancy in the office of mayor holds the office for the balance of the predecessor's term.
- [section 230]

*Note: A mayor holds office until a new mayor is elected. In the case of an election, the mayor holds office until their successor is appointed even if the existing mayor is not re-elected as a councillor.*

### **21.3 When is an election of a mayor by councillors to be held**

- (1) The election of the mayor by the councillors is to be held:
  - (a) if it is the first election after an ordinary election of councillors, within three weeks of the ordinary election; or
  - (b) if it is not that first election or an election to fill a casual vacancy, during the month of September.
- (2) If the councillors fail to elect a mayor as required by the Act, the governor may appoint one of the councillors as the mayor.

[section 290]

### **21.4 Casual vacancies in the office of mayor elected by councillors**

- (1) If a casual vacancy occurs in the office of a mayor elected by councillors, the vacancy is to be filled in the meeting of Council to be held within 14 days after the occurrence of a vacancy.
- (2) If the councillors fail to elect a mayor as required by clause 21.4(1) of this Code, the governor may appoint one of the councillors as the mayor.

[section 295]

### **21.5 Election of deputy mayor**

- (1) Councillors may elect a person from among their number to be the deputy mayor. The person may be elected for a mayoral term or a shorter term.
- (2) The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of the mayor.
- (3) Councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under the Act, or if no deputy mayor has been elected.

[section 231]

## **22. Procedure for Election of Mayor by Councillors**

### **22.1 Nomination**

- (1) A councillor may be nominated without notice for election as mayor or deputy mayor.
- (2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee) and is not valid unless the nominee has indicated consent to the nomination in writing.
- (3) The nomination is to be delivered or sent to the Returning Officer.
- (4) The Returning Officer is to announce the names of the nominees at the Council meeting at which the election is to be held.

[schedule 7 of the Regulation]

### **22.2 Election**

- (1) If only one councillor is nominated, that councillor is elected.
- (2) If more than one councillor is nominated, the Council is to resolve whether the election is to proceed by preferential ballot, by ordinary ballot or by open voting.
- (3) The election is to be held at the Council meeting at which Council resolves on the method of voting.
- (4) In this clause “ballot” has its normal meaning of secret ballot and “open voting” means voting by a show of hands or similar means.

[schedule 7 of the Regulation]

### **22.3 Returning officer**

- (1) The general manager (or a person appointed by the general manager) is the returning officer.

[schedule 7 of the Regulation]

## **23. Election Process using Ordinary Ballot or Open Voting**

### **23.1 Marking of ballot papers**

- (1) If the election proceeds by ordinary ballot, the returning officer is to decide the manner in which votes are to be marked on the ballot papers.
- (2) The formality of a ballot paper under this Part must be determined in accordance with clause 345(1)(b) and (c) and (6) of the Local Government (General) Regulation 2005 as if it were a ballot paper referred to in that clause.

Clause 345(1)(b) of the Regulation states that:

A ballot paper of an elector at an election is informal if it has not been initialled on the front by an election official.

Clause 345(1)(c) of the Regulation states as follows:

A ballot paper of an elector at an election is informal if it contains a mark or writing which, in the returning officer's opinion, would enable the elector to be identified.

Clause 345(6) of the Regulation states as follows:

Despite clause 23.1(1) of this Code, a ballot paper of an elector at an election is not informal by virtue of the existence of an unnecessary mark on the ballot paper if, in the opinion of the returning officer, the elector's intention is clearly indicated on the ballot paper.

- (3) An informal ballot paper must be rejected at the count.  
[schedule 7 of the Regulation]

### **23.2 Count 2 candidates**

- (1) If there are only 2 candidates, the candidate with the higher number of votes is elected.
- (2) If there are only 2 candidates and they are tied, the one elected is to be chosen by lot.  
[schedule 7 of the Regulation]

### **23.3 Count 3 or more candidates**

- (1) If there are 3 or more candidates, the one with the lowest number of votes is to be excluded.
- (2) If 3 or more candidates then remain, a further vote is to be taken of those candidates and the one with the lowest number of votes from that further vote is to be excluded.
- (3) If, after that, 3 or more candidates still remain, the procedure set out in clause 23.3(2) of this Code is to be repeated until only 2 candidates remain.
- (4) A further vote is to be taken of the 2 remaining candidates.
- (5) Clause 23.3(6) of this Code then applies to the determination of the election as if the 2 remaining candidates had been the only candidates.
- (6) If at any stage during a count under clause 23.3(1) or 23.3(2) of this Code, 2 or more candidates are tied on the lowest number of votes, the one excluded is to be chosen by lot.

[schedule 7 of the Regulation]

## **24. Election Process Using Preferential Ballot**

### **24.1 Marking of ballot papers**

- (1) The ballot papers are to contain the names of all the candidates. The councillors are to mark their votes by placing the numbers "1", "2" and so on against the various names so as to indicate the order of their preference for the candidates.
- (2) The formality of a ballot paper is to be determined in accordance with clause 345(1)(b) and (c) and 5 of the Local Government (General) Regulation 2005 as if it were a ballot paper referred to in that clause.

Clause 345(1)(b) of the Regulation states as follows:

A ballot paper of an elector at an election is informal if it has not been initialled on the front by an election official.

Clause 345(1)(c) of the Regulation states as follows:



A ballot paper of an elector at an election is informal if it contains a mark or writing which, in the returning officer's opinion, would enable the elector to be identified.

Clause 345(5) states as follows:

Despite clause 24.1(1) of this Code, a ballot paper of an elector at an election is not informal merely because it has not been initialled on the front by an election official, so long as it bears the mark determined by the Electoral Commission.

- (3) An informal ballot paper must be rejected at the count.  
[schedule 7 of the Regulation]

## **24.2 Count**

- (1) If a candidate has an absolute majority of first preference votes, that candidate is elected.
- (2) If not, the candidate with the lowest number of first preference votes is excluded and the votes on the unexhausted ballot papers counted to him or her are transferred to the candidates with second preferences on those ballot papers.
- (3) A candidate who then has an absolute majority of votes is elected, but, if no candidate then has an absolute majority of votes, the process of excluding the candidate who has the lowest number of votes and counting each of his or her unexhausted ballot papers to the candidates remaining in the election next in order of the voter's preference is repeated until one candidate has received an absolute majority of votes. The latter is elected.
- (4) In this clause "absolute majority" in relation to votes, means a number which is more than one-half of the number of unexhausted formal ballot papers.  
[schedule 7 of the Regulation]

### **24.3 Tied candidates**

- (1) If, on any count of votes, there are 2 candidates in, or remaining in the election and the numbers of votes cast for the 2 candidates are equal – the candidate whose name is first chosen by lot is taken to have received an absolute majority of votes and is therefore taken to be elected.
- (2) If, on any count of votes, there are 3 or more candidates in, or remaining in the election and the numbers of votes cast for 2 or more candidates are equal and those candidates are the ones with the lowest number of votes on the count of the votes – the candidate whose name is first chosen by lot is taken to have the lowest number of votes and is therefore excluded.

[schedule 7 of the Regulation]

### **24.4 Choosing by lot**

- (1) To choose a candidate by lot, the names of the candidates who have equal numbers of votes are written on similar slips of paper by the returning officer, the slips are folded by the returning officer so as to prevent the names being seen, the slips are mixed and one is drawn at random by the returning officer and the candidate whose name is on the drawn slip is chosen.

[schedule 7 of the Regulation]

### **24.5 Result**

- (1) The result of the election (including the name of the candidate elected as mayor or deputy mayor) is:
  - (a) to be declared to the councillors at the Council meeting at which the election is being held by the returning officer; and
  - (b) to be delivered or sent to the Director-General of the Department of Local Government and to the Secretary of the Local Government and Shires Association of New South Wales.

[schedule 7 of the Regulation]

## **25. Miscellaneous**

### **25.1 Mobile phones**

- (1) All mobile phones in the chamber and public gallery are to be turned off or switched to silent. Failure to do so may be treated as an act of disorder.

[Council Policy]

## **26. Notes**

- (1) Notes in the text of this Code are explanatory only and do not form part of the Code. They are provided for assistance only.

## 27. Definitions

In this Code:

**“Amendment”** means a change to the motion before the council. An amendment to a motion must be put forward in a motion itself.

**“Chairperson”:**

- (a) in relation to a meeting of Council – means the person presiding at the meeting as provided by section 5.1 of this Code; and
- (b) in relation to a meeting of a committee of Council – means the person presiding at the meeting as provided by section 19.8 of this Code.

**“Committee”** in relation to a Council, means a committee established under section 19.3 of this Code or the Council when it has resolved itself into a committee of the whole.

**“Councillor”** means a person elected or appointed to civic office, and includes a mayor.

**“Day”** means every day of the week including weekends and public holidays.

**“Motion”** means a proposal to be considered by council at a meeting. It is a request to do something or express an opinion about something. A motion formally puts the subject of the motion as an item of business for the council.

**“Pecuniary interest”** is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided in section 443 of the Act.

**“Planning matters”** means a decision made in the exercise of a function of a council under the *Environmental Planning and Assessment Act 1979*:

- (a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but

(b) not including the making of an order under Division 2A of Part 6 of that Act.

**“Record”** means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a councillor or an employee of the Council and, in particular, includes the minutes of meetings of a Council or of a committee of a Council.

**“Resolution”** means a motion that has been passed by the majority of councillors at the meeting. While in practice it means the ‘council decision’, the word resolution also indicates the process by which the decision was made.

**“Significant non-pecuniary interest”** is an interest that does not raise a pecuniary interest but it involves:

- (a) a relationship between a Council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person’s spouse, current or former spouse or partner, de facto or other person living in the same household;
- (b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship;
- (c) an affiliation between a Council official and an organisation, sporting body, club, corporation or association that is particularly strong;
- (d) anyone “whose affairs are closely linked to yours where there may be some type of direct or indirect beneficial relationship” (ICAC, *Managing Conflicts of Interest in the Private Sector*, November 2004, p 46).

**“The Act”** means the Local Government Act 1993, as amended.

**“The Regulation”** means the Local Government (General) Regulation 2005 or any regulation from time to time made to replace it.

**“Urgent report”** means a report which is not listed on the agenda for the meeting and the subject of which is considered by the general manager of such importance or urgency that it must be submitted to the meeting.

**“Year”** means the period beginning 1 July and ending the following 30 June.