

# LEETON SHIRE COUNCIL



## CODE OF MEETING PRACTICE

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# LEETON SHIRE COUNCIL- CODE OF MEETING PRACTICE

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**LEETON SHIRE COUNCIL**  
**CODE OF MEETING PRACTICE**  
**PART 1 - PRELIMINARY**

**1. Citation and Aim**

This Code may be cited as the Leeton Shire Council Code of Meeting Practice.

The aim of this Code is to achieve –

- (a) Council and Committee meetings which are orderly, efficient and earn the respect of the community.
- (b) Council and Committee meetings, which display open government and allow access and participation by the community.
- (c) Standards which promote and contribute to the democratic process.

**2. Definitions**

2.1 In this Code:

**amendment**, in relation to an original motion, means a motion moving an amendment to that motion;

**Chairperson**,

- (a) in relation to a meeting of the Council - means the person presiding at the meeting as provided by section 369 of the Act (see clause 12 of this Code); and
- (b) in relation to a meeting of a Committee - means the person presiding at the meeting as provided section 267 of the Act (see clause 55 of this Code);

**Committee**, in relation to a council, means a Committee established under clause 49 of this Code, or the council when it has resolved itself into a Committee of the whole. (see clause 48 of this Code);

**departmental representative** – is a person that at the request of the Director-General of the Department of Local Government or the Minister of Local Government has been authorised to investigate any aspect of a council or of its work and activities. (see clause 22)

**extraordinary meeting** – These meetings may be called on occasion to address business that cannot be postponed. Three days notice is not required for these meetings. Extraordinary meetings should only be called in an emergency (section 367(2) of the 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 the Council or of a Committee of the Council;

**the Act** means the Local Government Act 1993;

**the Code** means the Leeton Shire Council Code of Meeting Practice; and the Regulation means the Local Government (General) Regulation 2005.

2.2 Expressions used in this Code, which are defined in the dictionary at the end of the Act, have the meanings set out in the dictionary.

### **3. Act and regulation**

3.1 This Code is made pursuant to section 360(2) of the Act which states –  
*“A Council may adopt a Code of Meeting Practice that incorporates the regulations made for the purposes of this section and supplements those regulations with provisions that are not inconsistent with them.”*

3.2 It incorporates relevant provisions of the Regulation and the Act.

3.3 In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.

### **4. Notes to text**

4.1 Notes in the text of this Code are explanatory notes and do not form part of this Code. They are provided to assist understanding or to indicate supplementary or explanatory information.

4.2 Legislative references are shown in the following manner –

S369 -- Section 369 Local Government Act 1993

R231 – Clause 231 Local Government (General) Regulation 2005

4.3 The omission of any such reference indicates that the item is a non-statutory or discretionary provision

## **PART 2 - CONVENING OF, AND ATTENDANCE AT, COUNCIL MEETINGS**

### **5. Frequency of meetings of the Council**

- 5.1 The Council is required to meet at least 10 times each year, each time in a different month. - S365
- 5.2 The Council shall, by resolution, set the time, date and place of ordinary meetings of the Council.

### **6. Extraordinary meetings**

- 6.1 The General Manager may call an Extraordinary Meeting of the Council for any specific purpose
- 6.2 If the Mayor receives a request in writing signed by at least 2 Councillors (the Mayor can be one of the two signatories), the Mayor must call an extraordinary meeting of the Council to be held as soon as practicable but in any event within fourteen (14) days after the receipt of the request. - S 366

### **7. Notice of meetings**

- 7.1 The General Manager of the Council must send to each Councillor, at least 3 days before each meeting of the 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.
- 7.2 Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.- S 367(2)

A notice under this section and agenda for, 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 and the business paper in that form. – S367(1) – (3)

- 7.3 Notice must be published in a local newspaper indicating the time and place of the meeting (multiple meetings can be notified in the one advertisement).
- 7.4 Extraordinary meetings are not required to have notice published in a local newspaper however public notice is given by way of placing on council's website and on Council noticeboards.

### **8. Quorum**

- 8.1 The quorum for a meeting of the Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office. - S368
- 8.2 A meeting may lack a quorum either by an insufficient number of Councillors turning up to the meeting or by a Councillor or a number of Councillors leaving the room during the course of the meeting.



- 8.3 If so many Councillors declare a pecuniary interest in a matter that the Council is unable to form a quorum in the first instance that matter cannot be discussed at that meeting.
- 8.4 If the Councillors cannot alleviate themselves from the pecuniary interest (and therefore it is not possible for Council to consider the matter) the Councillors concerned may apply to the Minister to allow them to participate in the discussion and vote on that matter. The Minister does not grant such exemption lightly.

## **9. What happens when a quorum is not present?**

- 9.1 A meeting of the 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.
- 9.2 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.
- 9.3 The General Manager must record in the 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 the Council, together with the names of the Councillors present. - R233
- 9.4 Without a quorum the meeting is not a meeting of the Council. Resolutions cannot be made and any action taken will have no legal validity

## **10. Presence at Council meetings**

A Councillor cannot participate in a meeting of the Council unless personally present at the meeting. - R235

## **11. Absence from Council meetings**

- 11.1 If a Councillor is absent from three consecutive Council meetings without the leave of the Council having been granted then the Councillor automatically vacates office S.234 (1)(d)
- 11.2 Leave can be granted by Council at the meeting concerned, or at a prior meeting where the Councillors advises that he/she will be absent.

- 11.3 The acceptance of an apology is a positive acknowledgment of the person who tendered it. It does not amount to a grant of leave of absence (it has no recognition in the Act or Regulations).
- 11.4 Subclause 11.1 does not apply if the Councillor has been suspended from office from the Local Government Pecuniary Interest Tribunal under s.482 of the Local Government Act.

## **PART 3 - PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS**

### **12. Chairperson of Council meetings**

- 12.1 The Mayor or, at the request of, or in the absence of the Mayor, the Deputy Mayor presides at meetings of the Council.
- 12.2 If the Mayor and the Deputy Mayor are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council. S369(1) – (2)
- 12.3 If no Chairperson is present at a meeting of the 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.
- 12.4 The election must be conducted:
- (a) by the General Manager or, in his or her absence, an employee of the 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.
- 12.5 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.
- 12.6 For the purposes of subclause 12.5, 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 slips so as to prevent the names from being seen, mix the slips and draw one slip at random.
- 12.7 The candidate whose name is on the drawn slip is the candidate to be Chairperson. - R236

#### **Note General duties of a Chairperson**

- Ø Open the meeting
- Ø Check for quorum
- Ø Conduct the business of the meeting and according to the order of the agenda paper unless it is altered with the consent of the meeting.
- Ø Confine discussion to the item actually before the meeting and to see that it is dealt with and settled before passing onto the next item.
- Ø Allow formal debate
- Ø Give all those wishing to speak an opportunity to do so, to see that their remarks are addressed to the Chair and to allow no private discussion or personal matter to be introduced in a negative way.
- Ø Say who is to speak, if two (2) people should speak at the same time – the Chairperson's decision on such points is final.

- Ø Make every effort to let any meeting over which he / she presides understand the reasons for and the purpose of his / her rulings.
- Ø Close the meeting when all matters are attended to.

### **13. Chairperson to have precedence**

When the Chairperson rises or speaks during a meeting of the 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. R237

### **14. Chairperson's duty with respect to motions**

14.1 It is the duty of the Chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting.

14.2 The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.

14.3 Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected. R238(1) – (3)

### **15. Keeping and confirmation of minutes**

15.1 The Council must ensure that full and accurate minutes are kept of proceedings of a meeting of the Council. S375(1)

15.2 The General Manager must ensure that the following matters are recorded in the Council's minutes:

- (a) details of each motion moved at a Council Meeting and of 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. R254(a – c)

**Note:** Section 375 (1) of the Act requires a council to ensure that full and accurate minutes are kept of the proceedings of a meeting of the council (other provisions of this Regulation and of the Act require particular matters to be recorded in a council's minutes).

15.3 Minutes may be confirmed at an Ordinary or extraordinary meeting of council

15.4 A motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.

15.5 Minutes may be confirmed at an extraordinary meeting of the Council.

- 15.6 The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting. S375(2)
- 15.7 Every entry in the minutes of the business transacted at a meeting of the Council and purporting to be signed by the person presiding at a subsequent meeting of the 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. S703

## **16. Order of business – general**

- 16.1 At a meeting of the Council (other than an extraordinary meeting), the general order of business is (except as provided by the Regulation) as fixed by this Code or as fixed by a resolution of the Council.
- 16.2 The order of business fixed under 16.1 may be altered if a motion to that effect is carried. Such a motion can be moved without notice.
- 16.3 Despite Clause 250, only the mover of a motion referred to in 16.2 may speak to the motion before it is put. R239

## **17. Agenda and business papers for Council meetings**

- 17.1 The General Manager must send each Councillor notice of the business to be dealt with at the upcoming meeting (the agenda) by the Friday prior to the scheduled ordinary meeting and ensure that the agenda for a meeting of the Council states:
- (a) all matters to be dealt with arising out of the proceedings of former meetings of the Council; and
  - (b) if the Mayor (or the Deputy Mayor if acting for 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 sub-clause 17.2 any business of which due notice has been given.
- 17.2 The General Manager must not include in the agenda for a meeting of the 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.
- 17.3 The General Manager must cause the agenda for a meeting of the Council be prepared as soon as practicable before the meeting.

17.4 The General Manager must ensure that the details of any item of business to which section 9 (2A) of the Act applies are included in a business paper for the meeting concerned.

**Note** – see clause 68.2 of this Code

17.5 Nothing in this clause limits the powers of the Chairperson under Clause 243.of the Regulation

## **18. Mayoral minute**

18.1 The Mayor may put to a meeting (without notice) any matter which Council is allowed to deal with or which council officially knows about. R243 (1)

18.2 Mayoral minutes take precedence over all business on the agenda for the meeting, and the Mayor may move that the minute be adopted without the motion being seconded.

**Note** – Minutes submitted by the Deputy Mayor when acting for the Mayor, require a seconder.

18.3 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 the Councillors before coming to a decision.

## **19. Giving notice of business**

19.1 The Council must not transact business at a meeting of the Council:

(a) unless a Councillor has given notice of the business in writing or electronic mail by noon of the Monday in the week prior to the meeting

(b) unless notice of business has been sent to the Councillors at least 3 days before the meeting of the 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. In the event of an Extraordinary Meeting called in an emergency, notice of less than 3 days may be given. S367 R241 (1)

(c) The times specified in (a) may be varied by the General Manager when a Public Holiday falls within the meeting cycle.

19.2 Clause 19.1 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 the Council, or

(b) Is the election of a Chairperson to preside at the meeting as provided by Clause 236(1) of the Regulation, or

- (c) Is a matter or topic put to the meeting by the Chairperson in accordance with Clause 243 of the Regulation, or
  - (d) Is a motion for the adoption of recommendations of a Committee of the Council. R241 (2)
  - (e) Reports from officers placed on the agenda pursuant to a decision of a Committee that additional information be provided to the Council for consideration in conjunction with the Report of a Committee
- 19.3 Despite subclause 19.1 of this Code, business may be transacted at a meeting of the 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,
  - (b) The business proposed to be brought forward is ruled by the Chairperson to be of great urgency, and
  - (c) The General Manager provides advice that the matter does not require formal advice requiring further research.

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

- 19.4 Despite Clause 250 of the Regulation, only the mover of a motion referred to in subclause 19.3 of this Code can speak to the motion before it is put. R241 (4)

## **20. Agenda and business paper for Extraordinary meeting**

- 20.1 The General Manager must ensure that the agenda for an extraordinary meeting of the Council deals only with the matters stated in the notice of the meeting.
- 20.2 Despite subclause 20.1, business may be transacted at an Extraordinary Meeting of the Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:
- (a) A motion is passed to have the business transacted at the meeting;
  - (b) The business proposed to be brought forward is ruled by the Chairperson to be of great urgency, and
  - (c) The General Manager provides advice that the matter does not require formal advice requiring further research.

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

- 20.3 Despite Clause 250 of the Regulation, only the mover of a motion referred to in subclause 20.2 can speak to the motion before it is put R.241(4)

## **21. Official minutes**

21.1 The following matters must be included in the minutes of council meetings:

- Details of each motion at a council meeting and of any amendments . R254(a)
- The names of the mover and seconder of each motion and amendment R254(b)
- Whether each motion and amendment is passed or lost. R.254(c)
- The circumstances and reasons relating to the absence of a quorum together with the names of the Councillors present. R233(3)
- The dissenting vote of a Councillor, if requested. R.251(2)
- If a motion has been voted against, Councillors can request to have there vote for the motion recorded.
- The names of the Councillors who voted for a motion in a division and those who voted against it. R251(4).

Note that a division is always required when a motion for a planning decision is put at a meeting of the Council. S375A .

- A report of the proceedings of the Committee of the whole, including any recommendations of the Committee. R259(3)
- The grounds for closing part of a meeting to the public. S10D
- The report of a council Committee leading to a rescission or alteration motion. S372(6)
- The disclosure to a meeting by a Councillor of a pecuniary interest. S453

21.2 The minutes of council and Committee meetings must be signed by the person chairing the meeting at which they are confirmed. S375 and R266

## **22. Report of a departmental representative to be tabled at a Council meeting**

When a report of a Departmental representative has been presented to a meeting of council in accordance with section 433 of the Act, the Council must ensure that the report:

- (a) is laid on the table at that meeting; and
- (b) is subsequently available for the information of Councillors and members of the public at all reasonable times. R244



### **23. What is a motion?**

A motion is a proposal to be considered by council at a meeting.

### **24. Usual order of dealing with motions**

24.1 A motion or an amendment cannot be debated unless there is a “mover” and “seconder”. (R 246 ).

Once “moved” and “seconded” debate on the motion can begin, and such debate is subject to the provisions of Clause 35 of this Code.

24.2 The mover has the right to speak first, and a general “right of reply” at the end of the debate. (R250)

No new arguments or material should be argued during the “right of reply”.

24.3 The seconder of the motion speaks after the mover.

24.4 Councillors may debate the motion usually in the sequence of one for the motion and one against until all Councillors wishing to speak have done so.

24.5 A Councillor may, through the Chairperson, ask questions in relation to the motion, at Council or Committee meetings. Such questions are to be in accordance with Clause 33 of this Code.

24.6 At the end of the debate the Chairperson puts the motion to the meeting for vote.

### **25. What is an amendment?**

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.

The amendment must be dealt with before voting on the main motion takes place.

### **26. What is a resolution?**

A resolution is a motion that has been passed by a majority of Councillors at the meeting.

### **27. Notice of Motion - absence of mover**

In the absence of a Councillor who has placed a notice of motion on the agenda for a meeting of the 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 the Council at which the motion can be considered. R245

## **28. Motions to be seconded**

- 28.1 A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the Chairperson to speak to the motion before calling for the motion to be seconded. This clause is subject to subclause 35.5.
- 28.2 The seconder of a motion or of an amendment may reserve the right to speak later in the debate.

## **29 How subsequent amendments may be moved**

- 29.1 If an amendment has been accepted or rejected, a further amendment can be moved to the motion in its original or amended form (as the case may be), and so on, but no more than one motion and one proposed amendment can be before the Council at any one time. R247
- 29.2 It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.

## **30. Amendment which is a direct negative of the motion**

- 30.1 In all but town planning matters and land use applications the Mayor will not accept any amendment which is a direct negative of the motion.
- 30.2 In relation to town planning matters and land use applications an opposite motion to either an approval or refusal will be accepted for debate at the same time.

## **31. Motions of dissent**

- 31.1 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.
- 31.2 If a motion of dissent is carried, 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.

31.3 Despite clause 36, only the mover of a motion of dissent and the Chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply. R248 (1 – 3)

## **32. Petitions may be presented to the Council**

32.1 A Councillor may present a petition to the Council.

32.2 The Chairperson will only permit discussion on the petition or correspondence if the subject matter is already on the agenda for that meeting, or is a matter which can be dealt with under Clause 19(3) of this Code.

32.3 Any correspondence or other documentations proposed to be tabled by a member of the public must be presented to the Chairperson who is responsible for deciding whether the matter is to be distributed at the meeting or resubmitted to a future meeting.

## **33. Questions may be put to Councillors and Council employees**

33.1 A Councillor:

- (a) may, through the Chairperson, put a question to another Councillor; and
- (b) may, through the Chairperson and the General Manager, put a question to a Council employee.

33.2 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.

33.3 The Councillor must put every such question directly, succinctly and without argument.

33.4 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 clause. R 249 (1-4)

33.5 If a person to whom a question is put does not answer the question at that meeting or during that meeting, they should do so at the next meeting, or alternatively via direct communication (e.g. letter, e-mail, telephone call etc) with the person asking the question. The Councillors will be provided with a copy of the response via Council's information circular .

33.6 Where possible, the terms of a question to be put to a council employee should be conveyed to the employee prior to the meeting.

## **34. Mode of address**

Councillors shall at all times address other Councillors by their official designation, as Mayor or Councillor, as the case may be; and with the exception of the Chairperson, or any Councillor prevented by physical infirmity, shall stand when speaking.

If the Chairperson is the Mayor they are referred to as Mr Mayor or Madam Mayor.

### **35. Limitation as to number of speeches**

- 35.1 A Councillor who, during a debate at a meeting of the 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.
- 35.2 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.
- 35.3 A Councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. Any extension of time granted by the Council shall not exceed two minutes. 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.
- 35.4 Notwithstanding clauses 35.1 and 35.2 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 'that' motion or 'that' amendment ('whichever is to be put') and at least 2 Councillors have spoken against it.
- 35.5 The Chairperson must immediately put to the vote, without debate, a motion moved under clause 35.4 of this Code. A seconder is not required for such a motion.

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 35.1 under this Code.

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 the amendment to be resumed. R250 (1-7)

### **36. Motions put without debate**

Provided there is no objection from any Councillor present, any motion or recommendation before the Council may be put to the vote without discussion or debate.

### **37. Voting at Council meetings**

37.1 Each Councillor, including the Mayor, is entitled to one vote. The Councillor must be present at the Council meeting or Committee meeting to vote and cannot participate in a meeting by video-conferencing or tele-conference.  
R235

37.2 However, the Chairperson has, in the event of an equality of votes, a second or casting vote.

The Chairperson does not need to vote the same way on their first or "casting" vote.

Should the Chairperson fail to exercise a casting vote the motion being voted upon would be lost.

37.3 A Councillor, including the Mayor, who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion. This subclause does not apply to a Councillor who does not vote because they have vacated the meeting as he or she has a pecuniary interest in the subject matter of the motion.

37.4 If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.

37.5 The decision of the Chairperson as to the result of a vote is final, unless:

- (a) in the case where a vote has been declared on the voices, a Councillor immediately requests a show of hands; or
- (b) the decision is immediately challenged and not fewer than 2 Councillors rise and demand a division.

37.6 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 council's minutes.

37.7 Voting at a council meeting, including voting in an election at such a 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.

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

38.1 As required in planning decisions a division must be called and the minutes must record those Councillors who vote for the motion and those who vote against it. These decisions are then transferred to the publicly available register in accordance with the Local Government and Planning Legislation Amendment (Political Donations) Act 2008.

38.2 In this section "planning decision" means a decision made in the exercise of a function under the *Environmental Planning and Assessment Act 1979*

- (a) including a decision relating to a development application, and environmental planning instrument, 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.

38.3 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.

38.4 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

38.5 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.

38.6 This section extends to a meeting that is closed to the public. S375A

**Note** - The following statement is to be read out to the meeting prior to consideration of any planning matters by Council –

*“ Prior to consideration of this item, Councillors, applicants and any person making a written submission on this Development Application must disclose any relevant political donation or gift received from any person, company or organisation involved in this application, as required by the Local Government & Planning Legislation Amendment (Political Donations) Act 2008 “*

### **39. Decisions of the Council**

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

### **40. Rescinding or altering resolutions**

40.1 A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with Section 360 of the Act and, Clause 19.1(a) of Council's Code of Meeting Practice. S372(1)

40.2 If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice must also be given of the proposed further motion.

40.3 If a notice of motion to rescind or alter a resolution is given:

- (a) at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission or alteration has been dealt with; or
- (c) at any time after the close of the meeting at which the resolution is carried, no further action to carry the resolution into effect is to be taken after receipt of the notice of motion until the motion of rescission or alteration has been dealt with.

**Note** – If the resolution has already been largely put into effect, the Rescission Motion must be ruled out of order by the Chairperson unless it is a resolution capable of rescission and the possible effects of rescission have been reported to Council.

40.4 If a motion has been negated by Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with Council's Code of Meeting Practice. S372(3)

40.5 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council must be signed by 3 Councillors if less than 3 months has elapsed since the original resolution was passed, or the motion was negated, as the case may be. S372(4).

40.6 If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within 3 months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same. S372(5)

40.7 A notice of rescission can be dealt with at the meeting at which it is received but only in accordance with Clause 19.3 of this Code.

#### **41. Motions of adjournment**

41.1 Debate shall not be permitted on any motion for adjournment of a meeting of the Council.

41.2 If a motion for adjournment is negated, the business of the meeting shall proceed, and it shall not be in order for any Councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being negated.

41.3 A motion for adjournment may specify the time, date and place of the adjourned meeting; however, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the Chairperson shall make a determination with respect to whichever of these has not been specified.

## **42. On the table**

- 42.1 A procedural device to bring about a temporary adjournment to a debate is to move the motion “that the question lie on the table”. It allows the motion to be re-introduced if and when council desires.
- 42.2 If carried the effect of this motion is to stop debate on the substantive motion, plus any proposed amendments, to allow more information to be obtained. The matter may lay on the table until such time as a Councillor takes the initiative to give notice for it to be re-listed or if a period of three months has elapsed since the motion was carried by the Council. (Which ever may be the lesser.)
- 42.3 The motion provides Council the opportunity to take certain action on a contentious matter before the Council which the Council wishes to defer debate upon, because of a lack of information, to enable an informed decision to be made. The motion, if carried, places the matter in abeyance until specific steps are taken to place it on the agenda again in accordance with sub clause 42.2.

With regard to the motion “that the question lie on the table”, the following points need to be observed;

- (a) Does not require a seconder
- (b) The Chairperson may decline to accept the motion
- (c) There is no debate or amendments permitted, although the chair may allow up to three questions addressed to the mover of the motion, prior to putting the motion (with the mover providing responses to the question).
- (d) The mover must not have participated in the debate.
- (e) It must be proposed at the close of a speech, not during it.
- (f) If not carried, it cannot be reintroduced.
- (g) Any Councillor can specify the nature and content of further information as part of any questions raised.



## **PART 4 - KEEPING ORDER AT MEETINGS**

### **43. Questions of order**

- 43.1 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.
- 43.2 A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson to the matter.
- 43.3 The Chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- 43.4 The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.
- 43.5 The Chairperson's ruling with regard to order and procedure of a motion should be based upon this Code of Meeting Practice and the Common Principles of Meeting Practice.

### **44. Acts of disorder**

- 44.1 A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a Committee of the Council:
- (a) contravenes the Act, any regulation in force under the Act or this Code; 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 the council or Committee, or addresses or attempts to address the Council or 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) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt; or
  - (f) reads at length from any correspondence, report or other document, without the leave of the Council,
  - (g) insults or makes personal reflections on or imputes improper motives to any member of Council staff; or
  - (h) insults or engages in verbal abuse of a member of the public gallery.
- 44.2 The Chairperson may require a Councillor:
- (a) to apologise without reservation for an act of disorder referred to in subclause 44.1 (a) or (b); or
  - (b) to withdraw a motion or an amendment referred to in subclause 44.1(c) and, where appropriate, to apologise without reservation; or

- (c) to retract and apologise without reservation for an act of disorder referred to in subclause 44.1 (d), (e), (g) or (h).

44.3 A Councillor may, as provided by section 10(2) (a) or (b) of the Act, be expelled from a meeting of Council for having failed to comply with a requirement under subclause 44. The expulsion of a Councillor from a meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder concerned. R256

#### **45. How disorder at a meeting may be dealt with**

45.1 If disorder occurs at a meeting of the Council or Committee of the Council, the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well a disorder arising from the conduct of Councillors.

45.2 A member of the public may, as provided by section 10(2) (a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting. R257(1 – 2)

#### **46. Power to remove persons from meeting after expulsion resolution**

If a Councillor or a member of the public fails to leave the place where a meeting of the Council is being held:

- (a) immediately after the Council has passed a resolution expelling the Councillor or member of the public from the meeting; or
- (b) where the 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 other person authorised for the purpose by the Council or the person presiding, may, by using only such force as is necessary, remove the Councillor or member of the public from that place and, if necessary, restrain the Councillor or member of the public from re-entering that place. R258

## **PART 5 - COUNCIL COMMITTEES**

### **47. Procedure during meetings of Council Committees**

If a Committee consists of Councillors only, the relevant meeting provisions of the Act, the Regulation and Council's Meeting Code govern its procedure.

### **48. Committee of the whole**

48.1 The Council may resolve itself into a Committee of the whole to consider any matter before the Council. The Committee of the whole will then make a recommendation to council which Council will then formally consider and approve or otherwise deal with the recommendation of the Committee.  
S373

48.2 All the provisions of this Code relating to meetings of the Council, so far as they are applicable, extend to and govern the proceedings of a Committee of the whole, except the provision:

- (a) Limiting the number and duration of speeches; and
- (c) requiring Councillors to stand when speaking.  
R259 (1)

48.3 The advantage of a Council forming a Committee of a whole is that in accordance with Clause 259 of the Local Government Regulation the limits on the number and duration of Councillor speeches referred to Clause 250 of the Regulation do not apply.

48.4 The General Manager or, in the absence of the General Manager, an employee of the Council designated by the General Manager is responsible for reporting to the Council proceedings in a Committee of the Whole. It is not necessary to report the proceedings in full but any recommendations of the Committee must be reported. R259 (2)

48.5 The Council must ensure that a report of the proceedings (including any recommendations of the Committee) is recorded in the Council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed. R259 (3)

### **49. Council may appoint Committees**

49.1 A Council may, by resolution, establish such Committees as it considers necessary.

49.2 A Committee is to consist of the Mayor and such other Councillors as are elected by the Councillors or appointed by the council.

49.3 The quorum for a meeting of such a Committee is to be:

- (a) such number of members as the Council decides; or

- (b) if the Council has not decided a number - a majority of the members of the Committee. R260 (1–3 )

## **50. Functions of Committees**

A council must specify the function of each of its Committees when the Committee is established, but may from time to time amend those functions.  
R261

## **51. Notice of Committee meetings to be given**

51.1 The General Manager of the Council must send to each Committee member, 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.

51.2 However, notice of less than 3 days may be given of a Committee meeting called in an emergency. R262 (1-2 )

51.3 The provisions of clause 17.2 and 17.3 apply to the business papers of Committee meetings in the same manner as they apply to the business papers of meetings of the Council.

51.4 Despite subclauses 51.1 and 51.2, business may be transacted at a meeting of a Committee even though due notice of the business has not been given to the members. However, this can happen only 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.

## **52. Non-members entitled to attend Committee meetings**

52.1 A Councillor who is not a member of a Committee of a council is entitled to attend, and to speak at, a meeting of the Committee.

52.2 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. R263 (1-3)

### **53. Procedure in Committees**

- 53.1 Each Committee of the Council may regulate its own procedure except for a Committee consisting only of Councillors only and then this Committee is to be governed by the Act and Regulations.
- 53.2 Without limiting sub clause 53.1, a Committee of the 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.
- 53.3 Voting at a Committee meeting is to be by open means (such as on the voices or by show of hands).
- 53.4 If a Committee includes people who are not Councillors, it is up to the council to decide on the voting rights of Committee members.
- 53.5 Council must approve any changes to Committee membership at a formal council meeting (can be done by adopting a recommendation from a Committee, per cl.260 of the Regulation).
- 53.6 Council can adopt the recommendations of a Committee before the Committees minutes are confirmed as there is nothing in the Regulations that prohibits this practice.

### **54. Committees to keep minutes**

- 54.1 Each Committee of a 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 of 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.
- 54.2 As soon as the minutes of an earlier meeting of a Committee of the council have been confirmed at a later meeting of the Committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.  
R266 (1-2)
- 54.3 Any Committee recommendation shown in the Council meeting agenda should be the same as the one decided by the Committee. When the Council discusses the recommendation at the Council meeting, it can adopt, amend and adopt, or reject the recommendation.

### **55. Chairperson and Deputy Chairperson of Committees**

- 55.1 The Chairperson of each Committee of the 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 the Council; or

- (c) if the Council does not elect such a member - a member of the Committee elected by the Committee.

55.2 The Council may elect a member of a Committee of the Council as Deputy Chairperson of the Committee. If the Council does not elect a Deputy Chairperson of such a Committee, the Committee may elect a Deputy Chairperson.

55.3 If neither the Chairperson nor the Deputy Chairperson of a Committee of the 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.

55.4 The Chairperson is to preside at a meeting of a Committee of the Council. 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. R267 (1-4)

## **56. Absence from Committee meetings**

56.1 A member (other than the Mayor) ceases to be a member of a Committee if the member:

- (a) has been absent from 3 consecutive meetings of the Committee without the leave of the Committee having been granted.
- (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.

56.2 Sub clause 56.1 does not apply if all of the members of the Council are members of the Committee.

**Note:** The expression "year" means the period beginning 1 July and ending the following 30 June. See the dictionary to the Act.

## **57. Reports of Committees**

57.1 If in a report of a Committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation. R269 (1)

57.2 The recommendations of a Committee of the Council are, so far as adopted by the Council, resolutions of the Council. R269 (2)

57.3 If a Committee of a 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.  
R269( 3)

## **58. Disorder in Committee meetings**

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 the Council in the same way as they apply to meetings of the Council. R270

## **59. Certain persons may be expelled from closed Committee meetings**

59.1 If a meeting or a part of a meeting of a Committee of the Council is closed to the public in accordance with Section 10A of the Act, any person who is not a Councillor may be expelled from the meeting as provided by Section 10 2(a)and 2(b) of the Act.

59.2 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 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, retrain that person from re-entering that place.

## PART 6 - PECUNIARY INTERESTS

### 60. Pecuniary interests

#### What is a “pecuniary interest”?

A "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. S442

A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in Section 448 of the Act.

The Act, the Regulation, the Model Code and the Model Code Guidelines provide guidance on pecuniary conflicts of interest. These place obligations on Councillors, Council delegates and Council staff to act honestly and responsibly in carrying out their functions. They require that the pecuniary interests of Councillors, Council delegates and other people involved in making decisions or giving advice on Council matters be publicly recorded. They also require Councillors and staff not to deal with matters in which they have a pecuniary interest.

### 61. Persons who have a pecuniary interest

61.1 A Councillor or a member of a Council Committee who has a pecuniary interest in any matter before the Council, and who is present at a meeting where the matter is being considered, must disclose and identify the nature of the interest to the meeting as soon as practical. S451 .

61.2 Councillor must not be present at or in the sight of a meeting of Council at any time during which a matter to which they have declared a pecuniary interest is being considered (s.451(2) of the Act). This has been interpreted as excluding Councillors in both their official capacity and as a member of the public. Councillors barred from taking part in a discussion because of a pecuniary interest cannot escape this by addressing the meeting as a 'resident' or 'ratepayer'.

61.3 This exclusion is from all discussions on the matter, not just discussions on a formulated motion or a resolution on the matter.

61.4 Section 443 of the Local Government Act 1993 states as follows:

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

- (1) For the purposes of this Chapter, 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 subsection (1) (b) or (c):
- (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.

**62. Interests that need not be declared (Section 448 Local Government Act 1993)**

Section 448 of the Local Government Act states as follows (as at the adoption of this policy):

*What interests do not have to be disclosed?*

The following interests do not have to be disclosed for the purposes of this Chapter:

- (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 Part,
- (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 Part,
- (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) 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) 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,

- (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.

### **63. Disclosure and presence in meetings**

Section 451 of the Local Government Act states as follows (as at the adoption of this policy):

*“Disclosure and presence in meetings*

*(1) A Councillor or a member of a council Committee who has a pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or Committee at which the matter is being considered must disclose 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 the council or Committee:*

*(a) at any time during which the matter is being considered or discussed by the council or Committee, or*

*(b) at any time during which the council or Committee is voting on any question in relation to the matter.*

*(3) For the removal of doubt, 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 section 448.”*

**Note:** The code of conduct adopted by a council for the purposes of section 440 may also impose obligations on Councillors, members of staff of councils and delegates of councils.

### **64. Non breach of pecuniary interest due to pecuniary interest not being known**

Section 457 of the Local Government Act states as follows (as at the adoption of this policy):

*“A person does not breach section 451 or 456 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.”*

**65. Disclosures to be recorded**

Section 453 of the Local Government Act states as follows (as at the adoption of this policy):

*“A disclosure made at a meeting of a council or council Committee must be recorded in the minutes of the meeting”.*

**66. Non pecuniary conflict of interest – (Per Model Code of Conduct 7.10 – 7.20)**

66.1 Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

66.2 The matter of a report to council from the conduct review Committee/reviewer relates to the public duty of a Councillor or the General Manager. Therefore, there is no requirement for Councillors or the General Manager to disclose a conflict of interests in such a matter.

66.3 The political views of a Councillor do not constitute a private interest.

Managing non-pecuniary conflict of interests

66.4 Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.

66.5 If a disclosure is made at a council or Committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 7.13 of the Code of Conduct.

66.6 How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.

66.7 As a general rule, 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 the council official and an organisation, sporting body, club, corporation or association that is particularly strong.

66.8 If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists, you 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 absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply

66.9 If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.

66.10 If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.

66.11 Despite clause 66.8 (b) above, a Councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more Councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 66.8(b) above.

## **PART 7 - PRESS AND PUBLIC**

### **67. Public notice of meetings**

- 67.1 The Council must give notice to the press and public of the times, dates and places of its meetings and meetings of those of its Committees of which all the members are Councillors.
- 67.2 A notice of a meeting of a council or of a Committee must be published in a newspaper circulating in the area before the meeting takes place.
- 67.3 The notice must specify the time and place of the meeting.
- 67.4 Notice of more than one meeting may be given in the same notice.
- 67.5 This clause does not apply to an extraordinary meeting of a council or Committee.

### **68. Availability of agenda and business paper**

- 68.1 The Council and each such Committee must have available for the press and public at its offices and at each meeting copies (for inspection and taking away by persons) of the agenda and the associated business papers for the meeting.
- 68.2 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 must 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 the subclause 68.1 with respect to the availability of business papers do not apply to the business papers for that item of business.
- 68.3 The copies are to be available to the press and public as nearly as possible to the time they are available to Councillors.
- 68.4 The copies are to be available free of charge.
- 68.5 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 in electronic form.

### **69. Attendance at meetings of the Council**

- 69.1 Except as provided by this part:
- (a) everyone is entitled to attend a meeting of the Council and those of its Committees of which all the members are Councillors, and

- (b) a council must ensure that all meetings of the council and of such Committees are open to the public.

69.2 However, a person (including a Councillor) is not entitled to be present at a meeting of the council or of such a Committee if expelled from the meeting:

- (a) by a resolution of the meeting, or
- (b) by a person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

69.3 A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by the Code - clauses 44, 45, 46 or 59 or the regulations.

## **70. Limitation on members of public admitted to a meeting**

Nothing in this clause prevents any limitation being placed on the number of members of the public admitted to a meeting of the Council or a Committee of the Council, provided such limitation is for reason of safety or security.

## **71. Parts of a meeting that can be closed to the public**

71.1 A council, or a Committee of the council of which all of the members are Councillors, may close to the public so much of its meeting as comprises:

- (a) the discussion of any of the matters listed in subclause 71.2.
- (b) the receipt or discussion of any of the information so listed.

71.2 The matters and information are the following:

- (a) personnel matters concerning particular individuals ( other than Councillors ),
- (b) the personal hardship of any resident or ratepayer,
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the 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 the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law,
- (f) matters affecting the security of the council, Councillors, council staff or council property,

- (g) advice concerning litigation, or advice that would otherwise be privileged from the production in legal proceedings on the ground of professional privilege

## **72. Further limitations relating to closure of parts of meetings to the public**

72.1 A meeting is not to remain closed during the discussion of anything referred to in clause 71.2:

- (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 personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret - unless the council or Committee concerned is satisfied that discussion of the matter in the open meeting would, on balance, be contrary to the public interest.

72.2 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 71.2 (g) 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.

72.3 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 clause 71.2, 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 concerned is a matter referred to in clause 71.2.

72.4 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 the council or Committee concerned, or to employees of the council, or
  - (ii) cause a loss in confidence in the council or Committee

Note - Subsection 72.4 is in similar terms to section 59A (Public Interest) of the Freedom of information Act 1989

72.5 In deciding whether part of a meeting is to be closed to the public, the council or Committee concerned must have regard to any relevant guidelines issued by the Director-General. S10B (1 – 5)



### **73. Notice of likelihood of closure not required in certain cases**

Part of a meeting of a council, or of a Committee of the council of which all the members are Councillors, may be closed to the public while the council or 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 clause 71.2 and
- (b) the council or Committee, after considering any representations made under clause 75, 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. S10C

### **74. Public representations on closure of meetings**

Council and Council Committees shall 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.

### **75. Consideration of matters for closed Council and Committees**

Where the council or Committee decides to allow members of the public to make representations on a proposed closure, immediately following the acceptance of a motion being put to consider matter(s) for closed session, the following procedure shall be followed:

- (a) The Chairperson shall ask the senior officer of Council to read out any written submission as to why or why not any of the closed items listed in the agenda should not be considered in closed session
- (b) The Chairperson shall then ask the members of the public in attendance at the meeting whether any person would like to comment as to why or why not any of the closed items listed in the agenda should not be considered in closed session
- (c) The Chairperson may nominate or request the gallery to nominate up to two speakers for and two speakers against any item being considered in closed session
- (d) Each speaker may talk for up to two minutes maximum and confine their comments specifically to the proposal to consider that item in closed session, and not address substantive subject matter of the item
- (e) The Chairperson upon hearing all representations may then receive a call for a motion to consider the representations in open or closed session, and:

- (i) if the meeting decides to debate the worth of the representations in closed session, then a decision to consider the representations in closed session must be taken. The meeting will then move into closed session to consider the representations, and then move back into open to inform the public of their decision. However, the initial motion before the chair must be dealt with in the first instance.
- (ii) alternatively the representations are considered in open session and then the motion before the chair (to close the meeting) be put.

## **76. Grounds for closing part of meeting to be specified**

76.1 The grounds on which part of a 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 and the General Manger must ensure that any details concerning the item are put in a confidential business paper.

76.2 The grounds must specify the following:

- (a) the relevant provision of clause 71.2,
- (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 the public interest.  
S10D(1 – 3)

## **77. Public access to correspondence and reports**

77.1 The Council and a Committee of which all the 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.

77.2 This clause does not apply if the correspondence or reports:

- (a) relate to a matter that was received or discussed, or were laid on the table at, or submitted when the meeting was closed to the public
- (c) relate to a matter specified in clause 71.2 and are to be treated as confidential

77.3 This section does not apply if the Council or 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, are to be treated as confidential.

## **78. Resolutions passed at closed meetings to be made public**

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 part of the meeting has ended.

## **79. Access of public to minutes considered in closed session**

All minutes of a Committee of Council or of Council relating to matters considered in closed session shall be available to the public within seven (7) days of the meeting

## **80. Information publicly available**

80.1 Everyone is entitled to inspect the current version of the following documents free of charge:

- the council's code of conduct
- the council's code of meeting practice
- annual report
- annual financial reports
- auditor's report
- management plan
- EEO management plan
- the council's policy concerning the payment of expenses incurred by, and the provision of facilities to, Councillors
- the council's land register
- register of investments
- returns of the interests of Councillors, designated persons and delegates
- returns as to candidates' campaign donations
- agendas council and Committee meetings (including the closed part of the meetings) and the business papers for such meetings (other than business papers for matters considered during the closed part of the meeting).
- minutes of council and Committee meetings. However if part of a meeting is closed to the public, only the resolutions and recommendations of that part must be made available for inspection in the register of business papers and minutes.
- any codes referred to in this Act
- register of delegations
- annual reports of bodies exercising delegated council functions
- applications under Part 1 of Chapter 7 for approval to erect a building, and associated documents

- development applications (within the meaning of the Environmental Planning and Assessment Act 1979) and associated documents
- local policies adopted by the council concerning approvals and orders
- records of approvals granted, any variation from local policies with reasons for the variation, and decisions made on appeals concerning approvals
- records of building certificates
- plans of land proposed to be compulsorily acquired by the council
- leases and licences for use of public land classified as community land
- plans of management for community land
- environmental planning instruments, development control plans and plans made under section 94AB of the *Environmental Planning and Assessment Act 1979* applying to land within the council's area
- the statement of affairs, the summary of affairs and the register of policy documents required under the *Freedom of Information Act 1989*
- Departmental representatives' reports presented at a meeting of the council in accordance with section 433 of the Local Government Act.

80.2 Despite sub clause 80.1 and the other provisions of the Local Government Act, a person does not have the right to inspect so much of a development application, or an application under Part 1 of Chapter 7 for approval to erect a building, as consists of:

- (a) the plans and specifications for any residential parts of a proposed building, other than plans that merely show its height and its external configuration in relation to the site on which it is proposed to be erected, or
- (b) commercial information, if the information would be likely:
  - (i) to prejudice the commercial position of the person who supplied it, or
  - (ii) to reveal a trade secret.

80.3 Everyone is entitled to inspect free of charge:

- (a) a document that was replaced by a current document referred to in sub clause 80.1, and
- (b) if a document referred to in sub clause 80.1 is produced annually the corresponding document produced for the previous year.

80.4 The documents may be inspected at the office of the council during ordinary office hours.

- 80.5 The council must allow inspection of versions of the documents other than the current and immediately preceding versions if those other versions are reasonably accessible.
- 80.6 The council must allow inspection of its other documents free of charge unless, in the case of a particular document, it is satisfied that allowing inspection of the document would, on balance, be contrary to the public interest.
- 80.7 However, subsection 80.6 does not apply to the part (if any) of a document that deals with any of the following:
- (a) personnel matters concerning particular individuals,
  - (b) the personal hardship of any resident or ratepayer,
  - (c) trade secrets,
  - (d) a matter the disclosure of which would:
    - (i) constitute an offence against an Act, or
    - (ii) found an action for breach of confidence.
- 80.8 For the purpose of determining whether allowing inspection of a document would be contrary to the public interest, it is irrelevant that the inspection of the document may:
- (a) cause embarrassment to the council or to Councillors or to employees of the council, or
  - (b) cause a loss of confidence in the council, or
  - (c) cause a person to misinterpret or misunderstand the information contained in the document because of an omission from the document or for any other reason.

**Note:** Subsection 80.7 is in similar terms to section 59A (Public Interest) of the *Freedom of Information Act 1989*.

**Note.** A council could also make copies of the documents available at other places, for example, at libraries.

A council may have other information available for inspection free of charge: for example, the rate record, the valuation list and the register of dog registrations.

## **81. Restrictions to access of information**

81.1 If the General Manager or any other member of the staff of a council decides that access to a document or other information held by the council should not be given to the public or a Councillor, the person concerned must provide the council with written reasons for the restriction.

81.2 The reasons must be publicly available.

- 81.3 The council must review any such restriction no later than 3 months after it is imposed.
- 81.4 The 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.
- 81.5 The 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 Freedom of Information Act 1989
- 81.6 A review is not required under this section if the restriction concerned has been removed.

## **82. Personal identifiers in business papers**

Council staff should, when preparing business papers which will be open to inspection by the public, avoid including personal identifiers such as names and addresses unless such information is required by legislation. An example of when such information would be required is a development application, in which case the name and address of the applicant must be provided.

## **83. Copies of documents**

- 83.1 A right under the Local Government Act to inspect a document includes the right to take away a copy of the document.
- 83.2 Accordingly, a council must have a copy of all relevant documents available for copying by, or on behalf of, any person who asks for one.
- 83.3 The copies may be taken away either free of charge or on payment of reasonable copying charges, as the council chooses (except as otherwise specifically provided by or under the Local Government Act).
- 83.4 This section does not apply to the following:
- (a) the residential roll of electors referred to in section 302(1) of the Local Government Act
  - (b) the resumes of candidates for election referred to in section 308 of the Local Government Act,
  - (c) building certificates

**Note:** Section 174 (3) of the Local Government Act provides that a person may obtain a copy of a building certificate from the council's record with the consent of the owner of the building (and on payment of the approved fee).

## **PART 8 – MISCELLANEOUS**

### **84. Disclosure and misuse of information – prescribed circumstances**

For the purpose of section 664(1B) (c) of the Act, any disclosure made with the intention of enabling the Minister or the Director-General to properly exercise the functions or conferred on them by the Act is a prescribed circumstance.

**Note:** The effect of this provision is to permit disclosure of information with respect to discussion at, or the business of, a closed meeting of the Council or a Committee to the Minister or the Director-General, provided such disclosure is with the intention set out in the clause.

### **85. Inspection of the minutes of the Council or a Committee**

85.1 An inspection of the minutes of the Council or Committee of the 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.

85.2 The General Manager must ensure that the minutes of the Council and any minutes of a Committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

**Note:** Section 12 of the Act confers a right (restricted in the case of closed parts of meeting) to inspect the minutes of a council or Committee of a council.

### **86. Recording of meetings of the Council or a Committee prohibited without permission**

A person may use a recording device to record the proceedings of a meeting of the Council or a Committee of a Council only with the authority of the Council or Committee.

A person may be expelled from a meeting of the Council or a Committee of the Council for using or having a tape recorder in contravention of this clause.

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 of 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 that person from re-entering that place.

In this clause, recording device includes a video camera and any electronic device capable of recording speech.

### **87. Council Seal**

87.1 The seal of the Council must be kept by the General Manager.

87.2 The seal of the Council may be affixed to a document only in the presence of the Mayor and the General Manager.

- 87.3 The affixing of the Council seal to a document has no effect unless the Mayor and General Manager attest by their signatures that the seal was affixed in their presence.
- 87.4 For the purpose of this clause Mayor includes a Councillor acting for the Mayor and General Manager includes a director acting for the General Manager.
- 87.5 The seal of a council must not be affixed to a document unless the document relates to the business of the council and the council has resolved (by resolution specifically referring to the document) that the seal be so affixed.
- 87.6 For the purpose of sub clause 87.5, a document in the nature of a reference or certificate of service for an employee of the council does not relate to the business of the council

## **88. Certain circumstances do not invalidate Council decisions**

Proceedings at a meeting of the 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 a Committee member; or
- (c) Any defect in the election or appointment of a Councillor or a Committee member; or
- (d) A failure of a Councillor or a Committee member to disclose a pecuniary interest at a Council or a Committee meeting; or
- (e) A failure to comply with this Code.

## **89. Amendment of Code**

This Code may be amended only in accordance with the provisions of Division 1 of Part 2 of Chapter 12 of the Act.

## **90. Council workshops**

The Council shall set the time, date and place of Council workshops to be conducted in accordance with the guidelines that appear in schedule 3.

Should there be insufficient agenda items the General Manager in consultation with the Mayor may cancel or postpone Council workshops.



## **SCHEDULE 1**

### **Order of business – Ordinary Meetings of the Council**

1. Civic Prayer
2. Apologies
3. Confirmation of Minutes
4. Declarations of Interest
5. Mayoral Minutes
6. Matters for Council's Decision
  - 6.1 General Manager's Matters
  - 6.2 Economic and Tourism Matters
  - 6.3 Corporate Services Matters
  - 6.4 Engineering and Technical Services Matters
  - 6.5 Environmental and Community Services Matters
7. Statements by Councillors
8. Committee Matters

**Note** - Item 7 Statements by Councillors is not a vehicle for introducing new business at a meeting, but rather an opportunity for Councillors to report on activities or matters of general interest.

## **SCHEDULE 2**

### **Order of Business – Extraordinary Meetings of the Council**

1. Civic Prayer
2. Apologies
3. Confirmation of Minutes
4. Declaration of Interest
5. Mayoral Minutes
6. Matters for Council's Decision

## **SCHEDULE 3**

### **Council Workshop Guidelines**

#### **Purpose**

The purpose of Council Workshops is to allow the Mayor, elected Councillors and senior council management staff to:

1. Exchange information (sometimes confidential) on proposals that are being worked on by staff or proposals that Councillors would like to see investigated.
2. Provide a forum for discussion on proposed staff initiatives and discuss options for engaging the community in determining Councils strategic, corporate direction.
3. Assist in Councillor/senior staff team building.
4. Help develop trust and understanding between those who attend the workshops.

#### **Format**

1. There will be no standing orders or formal meeting procedures.
2. Those attending the workshops should be respectful and show courtesy for the person that is talking.

#### **Venue**

The venue for workshops will be the Council Chambers

#### **Times**

Starting time is 5.30 pm.

Finishing time is 7.30 pm (on time).

#### **Date**

Workshops are normally held on the second Wednesday of the month.

#### **Agenda**

Councillors and staff are encouraged to have issues and information reports put onto an agenda. These will consist of notes, memorandums and draft reports (not including recommendations).

#### **Decisions**

The workshops cannot make a decision or issue a direction to staff or Councillors.

#### **Minutes**

No minutes or recording of workshops shall be kept.