

Wentworth Shire Council

CODE

OF

MEETING PRACTICE

Adopted: 20 June 2007

Amended: 20 February 2008

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TABLE OF AMENDMENTS AND UPDATES INCLUDED IN CODE

Date of Council Resolution	Reason for Amendment	Source of Amendment or Detail
20 June 2007	Council review	Local Government (General) Regulations 2005
20 February 2008	Council review	Changes to Clause 9(3), 18(1)(a), 18(1)(b), new 18(1)(c), new 18(1)(d), 73
21 January 2009	Council review	Section 375A of the Local Government Act 1993, and minor amendments to the contents page.
<u>21 April 2010</u>	<u>Council review</u>	<u>Incorporation of DLG Practice Note 16 – Meetings Practice Note and incorporation of WPP39 – Rules of Debate, and WPP16 – Closed Meeting Procedures</u>

PART 1 - PRELIMINARY

Citation

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

Definitions

In this Code:

Act	Local Government Act 1993
Amendment	As defined in clause 231 of the Local Government (General) Regulation 2005
Chairperson	As defined in clause 231 of the Local Government (General) Regulation 2005
Code	Wentworth Shire Council Code of Meeting Practice (this document)
Committee	As defined in clause 231 of the Local Government (General) Regulation 2005
Councillor	As defined in clause 231 of the Local Government (General) Regulation 2005
Record	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
Regulations	Local Government (General) Regulation 2005
Relative	As defined in section 3 (Dictionary) of the Local Government Act 1993

2.2 Except as otherwise provided, 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.

3.1 This Code is made pursuant to section 360(2) of the Act.

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.

Notes to Text

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.

PART 2 - MEETINGS

Frequency of Meeting of the Council

2. (1) The council is required to meet at least 10 times each year, each time in a different month. **(LGA S365)**
- (2) (a) council adopts an annual schedule for meetings of Council and its Committees, including cycle times between meetings.
- (b) the General Manager will give notice of each council and committee meeting, its time, location, and agenda at least 3 days in advance. **(LGA S367(1))**
- (3) The council may in special circumstances by resolution vary the times and dates of ordinary functional committees and ordinary council meetings from the adopted calendar.

Absence from Meetings

3. (1) Any councillor who is absent without prior leave of the council from 3 consecutive ordinary meetings of the council shall be disqualified from holding civic office unless he/she has been suspended from office under LGA S482. **(LGA S234)**

Extraordinary Meetings

4. (1) The Mayor may not call extraordinary meetings of the council by him or herself without having a written request with another councillor's signature.
- (2) If the Mayor receives a request in writing signed by at least 2 councillors (the Mayor may be one of the councillors), the Mayor must call an extraordinary meeting of the council to be held as soon as practicable but in any event within 14 working days after the receipt of the request. **(LGA S366)**
- (3) If the Mayor fails, within 3 working days of receipt of a request pursuant to subsection (2), to give a direction to the General Manager for the sending of notices to Councillors for an extraordinary meeting to be held within the period specified in subsection (2), the General Manager must send a notice to each Councillor specifying that the meeting be held within seven working days following the date of receipt of the request.
- (4) For the purpose of subsections (2) and (3), a working day is a day that is not a Saturday, Sunday or public holiday.

Notice of Meetings

5. (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. **(LGA S367(1))**

- (2) 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. **(LGA S9(1))**
- (3) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency. **(LGA S367(2))**
- (4) 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.
- (5) The notice must specify the time and place of the meeting.
- (6) Notice of more than one meeting may be given in the same notice.
- (7) This clause does not apply to an extraordinary meeting of a council or committee. **(Reg CI 232)**

Quorum

6. 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. **(LGA S368)**

What Happens When a Quorum is Not Present?

7. (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. **(Reg CI 233(1))**
- (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. **(Reg CI 233(2))**
- (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. **(Reg CI 233(3))**

Presence at Council Meetings

8. A councillor cannot participate in a meeting of the Council unless personally present at the meeting. **(Reg CI 235)**

PART 3 - PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

Chairperson of Council Meetings

9. (1) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor presides at meetings of the Council. **(LGA S369(1))**
- (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. **(LGA S369(2))**
- (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. **(Reg CI 236(1))**
- (4) The election referred to in subclause (3) above 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. **(Reg CI 236(2))**
- (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. **(Reg CI 236(3))**
- (6) For the purpose of subclause (5), the person conducting the election must:
 - (a) arrange 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 of the slips at random. **(Reg CI 236(4))**
- (7) The candidate whose name is on the drawn slip is the candidate who is to be Chairperson. **(Reg CI 236(5))**

Chairperson to Have Precedence

10. When the Chairperson rises or speaks during a meeting of the Council:
 - (a) any Councillor then speaking or seeking to speak must immediately, if standing, resume his or her seat; and
 - (b) every Councillor present must be silent to enable the Chairperson to be heard without interruption. **(Reg CI 237)**

Chairperson's Duty with Respect to Motions

11. (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.
- (2) The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- (3) Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected. **(Reg CI 238)**

Confirmation of Minutes

12. (1) The Council must ensure that full and accurate minutes are kept of proceedings of the Council. **(LGA S375(1))**
- (2) 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. **(LGA S375(2))**

Order of Business

13. (1) At a meeting of the Council (other than an extraordinary meeting), the general order of business is (except as provided by this Code) fixed by the Council's Code of Meeting Practice (Schedule "A") unless the General Manager believes that the order should be altered to improve meeting proceedings. **(Reg CI 239(1))**
- (2) The order of business fixed under subclause (1) may be altered if a motion to that effect is carried. Such a motion can be moved without notice. **(Reg CI 239(2))**
- (3) Despite Clause 29, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put. **(Reg CI 239(3))**

Agendas for Council Meetings

14. (1) The General Manager must 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 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 subclause (2) any business of which due notice has been given. **(Reg CI 240(1))**
- (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. **(Reg CI 240(2))**

- (3) The General Manager must cause the agenda for a meeting of the Council to be prepared as soon as practicable before the meeting. **(Reg Cl 240(3))**
- (4) The General Manager must ensure that the details of any item of business to which Clause 63(3) of this Code applies are included in a business paper for the meeting concerned. **(Reg Cl 240(4))**
- (5) Nothing in this clause limits the powers of the Chairperson under Clause 20. **(Reg Cl 240(5))**

Giving Notice of Business

15. (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 by Thursday of the week immediately preceding the meeting, and **(Reg Cl 241 (1)(a))**
 - (b) Unless notice of business has been sent to the Councillors at least 3 days before the meeting. **(Reg Cl 241 (1)(b)) (LGA 367(2))**
 - (c) The notice requirements stipulated at clause 18(1)(a) and (b) are not applicable to an Extraordinary meeting called in an emergency. In such circumstances written notice of business provided and notice of business sent to Councillors may be less than 3 days.
 - (d) The written notice of business need not contain the wording “called in an emergency” to be deemed valid written notice as prescribed in clause (1)(c) above.
- (2) Subclause (1) does not apply to the consideration of business at a meeting if the business:
 - (a) is already before council or directly relates to a matter that is already before council, or
 - (b) is the election of a chairperson to preside at the meeting as provided by Clause 12(3) of this Code
 - (c) is a matter or topic put to the meeting by the Chairperson in accordance with Clause 20. **(Reg Cl 241(2)(c))**
 - (d) is a motion for the adoption of recommendations of a committee of the council **(Reg Cl 241(2)(d))**
- (3) Despite subclause (1), business may be transacted at a meeting of the Council when due notice of the business has not been given to Councillors, but 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.

Such a motion can be moved without notice. **(Reg Cl 241(3))**
- (4) Despite Clause 29, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put. **(Reg Cl 241(4))**

Agenda for Extraordinary Meetings

16. (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. **(Reg CI 242(1))**
- (2) Despite subclause (1), business may be transacted at an extraordinary 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; and
- (b) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.

Such a motion can be moved without notice, but only after the business notified in the agenda for the meeting has been disposed of. **(Reg CI 242(2)).**

- (3) Despite Clause 29, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put. **(Reg CI 242(3))**

Mayoral Minute

17. (1) If the Mayor is the Chairperson at a meeting of a Council, the Chairperson is, by minute signed by the Chairperson, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the Councillor of which the Council has official knowledge.
- (2) Such a minute, when put to the meeting, takes precedence over all business on the Council's agenda for the meeting. The Chairperson (but only if the Chairperson is the Mayor) may move the adoption of the minute without the motion being seconded.
- (3) A recommendation made in a minute of the Chairperson (being the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council. **(Reg CI 243)**

Report of a Departmental Representative to be Tabled at Council Meeting

18. When a report of a NSW Department of Local Government representative has been presented to a meeting of a 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. **(Reg CI 244)**

Notice of Motion - Absence of Mover

19. 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. **(Reg CI 245)**

Motions to be Seconded Before Debate

20. (1) A motion or an amendment cannot be debated unless or until it has been seconded. This Clause is subject to Clauses 20(2) and 29(5). **(Reg CI 246)**
- (2) The mover of the motion will be the first to speak.
- (3) Following the presentation of the mover, the Chairperson shall allow members to speak in the following order: -
- i) member speaking against the motion
 - ii) member speaking for the motion
 - iii) continue alternating between for and against
- (4) Each member has the right to speak on the motion and each amendment once only except the mover of the motion who has final right of reply.
- (5) It is permissible to debate the motion and an amendment concurrently.
- (6) The Chairperson must ensure that any discussion/debate is relevant to the motion/amendment being considered. The Chairperson has the right and obligation to interrupt and suspend any discussion that is not relevant to the matter before Council, is tedious repetition, contains objectionable language, or is unlawful.

How Subsequent Amendments May be Moved

21. (1) If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the Council at any one time. **(Reg CI 247)**
- (2) During the debate on an amendment, if a further amendment is foreshadowed, the subject and the detail of the foreshadowed amendment shall not be indicated, and any such foreshadowed amendment shall not be moved and debated until the amendment being debated is dealt with.

Motions of Dissent

22. (1) A Councillor can, without notice, move to dissent from the ruling of the Chairperson on a point of order. Such motion of dissent requires seconding and the Chairperson must then suspend the business before the meeting until a decision is made on the motion of dissent. **(Reg CI 248(1))**
- (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. **(Reg CI 248(2))**

- (3) Despite Clause 29, 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. **(Reg CI 248(3))**

Correspondence

23. (1) Correspondence with the council shall be addressed to the Mayor or General Manager;
- (2) Letters shall not be presented or read by members at meetings of the council.
- (3) The council may decide whether or not correspondence shall be read - provided that the report of the auditor or of a local government representative, whether read or not, shall be laid on the table and be made available at any reasonable time for the information of members.
- (4) Outward correspondence shall be signed by -
- (a) the Mayor;
 - (b) the General Manager, or;
 - (c) any employee of the council authorised by the General Manager.

Questions May be Put to Councillors and Council Employees

24. (1) A councillor may:
- (a) through the chairperson, put a question to another councillor; and **(Reg CI 249 (1)(a))**
 - (b) through the chairperson and the General Manager, put a question to a council employee. **(Reg CI 249(1)(b))**
- (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. **(Reg CI 249(2))**
- (3) Any such question must be put directly, succinctly, and without argument. **(Reg CI 249(3))**
- (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. **(Reg CI 249(4))**
- (5) Nothing in this Clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting.

Mode of Address

25. (1) 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.

- (2) The Mayor may suspend the requirement to stand or to address other councillors by their official designation, at his/her discretion.
- (3) Councillors are not required to stand at a committee meeting of council or during question time of the ordinary meeting.

Limitation as to Number of Speeches

26. (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 councillors 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. **(Reg CI 250(1))**
- (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. **(Reg CI 250(2))**
- (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. 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. **(Reg CI 250(3))**
- (4) Despite subclauses (1) and (2), a councillor may move that a motion or an amendment be now put:
 - (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it; or
 - (b) if at least 2 councillors have spoken in favour of the motion or amendment and at least 2 councillors have spoken against it. **(Reg CI 250(4))**
- (5) The chairperson must immediately put to the vote, without debate, a motion moved under subclause (4). A seconder is not required for such a motion. **(Reg CI 250(5))**
- (6) 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 subclause (1). **(Reg CI 250(6))**
- (7) 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. **(Reg CI 250(7))**

Questions Without Notice

27. (1) During the time provided at the council meeting, every councillor has the right to ask questions on any issue without notice in accordance with Clause 27.

- (2) Council must not transact business in regard to any questions asked unless in accordance with Clause 18 (3)

Motions Put Without Debate

28. 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.

Voting at Council Meetings

29. (1) Each councillor is entitled to one vote. **(LGA S370(1))**
- (2) However, the chairperson has, in the event of an equality of votes, a second or casting vote. **(LGA S370(2))**
- (3) A councillor 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 he or she has a pecuniary interest in the subject matter of the motion (Delete as s451 now requires a councillor to leave the meeting – as such i). **(Reg CI 25(1))**
- (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. **(Reg CI 25(2))**
- (5) The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 councillors rise and demand a division. **(Reg CI 25(3))**
- (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. **(Reg CI 25(4))**
- (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 an election by councillors for mayor and deputy mayor is to be by secret ballot. **(Reg CI 25(5))**

Note: The *Local Government (Elections) Regulation 1999* provides that a council is to resolve whether an election by the councillors for mayor or deputy mayor is to be by preferential ballot, ordinary ballot or open voting (Clause 124 and Clause 3 of schedule 3). Clause 3 of schedule 3 also makes it clear that “ballot” has its normal meaning of secret ballot.

Division called and recording of voting on planning matters

- 32A. 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. The General Manager is to keep a register that: describes the

decision in question, names the councillors who supported and the names of councillors who opposed the planning decision. **(LGA S375A)**.

Representations by Members of the Public - Closure of Part of Meeting

30. Where the council or committee decides to allow members of the public to make representations to or at a council or committee meeting, as to whether a part of the meeting should be closed, each member of the public or representative of a group of the public will be limited to speaking for no more than two (2) minutes each. **(LGA S10A(4) Reg CI 252)**

Decisions of the Council

31. 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. **(LGA S371)**

Resolutions Passed at Closed Meetings to be Made Public

32. 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. **(Reg CI 253)**

Rescinding or Altering Resolutions

33. (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 Clause 18. **(LGA S372(1))**
- (2) If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice may also be given of the proposed further motion.
- (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 **(LGA S372(2))**
- (b) at any time after the meeting at which the resolution was passed, and if the resolution has not already been carried into effect, the resolution must not be carried into effect until the motion of rescission or alteration has been dealt with.
- (4) If a motion has been negated by the council, a motion having the same effect must not be considered unless notice of it has duly been given in accordance with Clause 18. **(LGA S372(3))**
- (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 at least 3 councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be. **(LGA S372(4))**
- (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 subclause may not be evaded by substituting a motion differently worded, but in principle the same. **(LGA S372(5))**

- (7) A motion to which this Clause applies may be moved on the report of a committee of the council and any such report must be recorded in the minutes. **(LGA S372(6))**
- (8) The provisions of this Clause concerning negatived motions do not apply to motions of adjournment. **(LGA S372(7))**

Motions of Adjournment

- 34. (1) Debate shall not be permitted on any motion for adjournment of a meeting of the council.
- (2) If a motion for adjournment is negatived, the business of the meeting shall proceed, and it shall be in order for any councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being negatived.
- (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.

Matters to be Included in Minutes of Council Meeting

- 37A 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 **(Reg Cl 254)**.

PART 4 - KEEPING ORDER AT MEETINGS

Questions of Order

35. (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. **(Reg CI 255(1))**
- (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. **(Reg CI 255 (2))**
- (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. **(Reg CI 255(3))**
- (4) The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed. **(Reg CI 255(4))**

Acts of Disorder

36. (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 from any correspondence, or other document, not already before the council, without the leave of the council.
 - (g) leaves the same without the permission of the chairman before all the business has been concluded. **(Reg CI 256(1))**
- 2) The Chairperson may require a councillor: **(Reg CI 256(2))**
- (a) to apologise without reservation for an act of disorder referred to in subclause (1)(a), (b) or (g); or **(Reg CI 256(2)(a))**
 - (b) to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation; or **(Reg CI 256(2)(b))**

(c) to retract and apologise without reservation for an act of disorder referred to in subclause (1)(d), (e) or (f). **(Reg Cl 256(2)(c))**

- (3) A councillor may be expelled from a meeting of the council or from a committee of the council by a resolution of the meeting, for having failed to comply with a requirement under subclause (2). The expulsion of a councillor under this subclause does not prevent any other action from being taken against the Councillor for the act of disorder concerned. **(Reg Cl 256(3) & LGA S10(2)(a) & (b))**

How Disorder at a Meeting May be Dealt with

37. (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. **(Reg Cl 257(1))**
- (2) A member of the public may be expelled from a meeting of the council or from a committee of the council by a resolution of the meeting, for engaging in or having engaged in disorderly conduct at the meeting. **(Reg Cl 257(2) & LGA S10(2)(a))**

Power to Remove Persons From Meeting After Expulsion Resolution

38. 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 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 to leave the meeting,

a police officer, or any 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. **(Reg Cl 258)**

Disorder at a Meeting May Also Constitute Misbehaviour

- 41A Acts of disorder at council or committee meetings (as defined at paragraph 39 above), may also amount to misbehaviour as defined by the LGA. **(LGA S440F)**

Misbehaviour at a council meeting may result in further action being taken against the councillor in addition to the option of expulsion (see paragraph 39 (3)) above (Reg Cl 256(3)). Council has the option to deal with alleged misbehaviour at meetings internally or externally (for sufficiently serious or repeated incidents of misbehaviour).

The sanctions available for acts of misbehaviour include:

- an apology by the relevant councillor;
- counselling of the relevant councillor;
- make public findings of inappropriate conduct;
- censure of the councillor pursuant to section 440G of the Act;
- expulsion from a meeting;
- referring the matter to an appropriate investigative body (if serious enough);
- requesting the process of suspension be initiated by the Director of the Department of Local Government; and
- the prosecution for any breach of applicable laws.

Referring the matter to an external investigative body or requesting the Director General to initiate suspension should only be utilised in the most serious cases or multiple incidents of disruptive behaviour forming a pattern over a period of time.

Requesting Suspension

41B Council may request suspension by the Director General if:

- (a) the councillor in question has been formally censured for misbehaviour on two or more occasions, or
- (b) has been expelled from a meeting on at least one occasion (**LGA S440I(2)(a)**).

Council may also request suspension if the councillor's behaviour has involved one incident of misbehaviour *sufficiently serious* to warrant suspension. However, council cannot request suspension on this ground unless the councillor has been formally censured for the specific incident or expelled for the incident concerned (**LGA S440I(2)(b)**).

Formal Censure of a Councillor

41C Council may formally censure a councillor by a resolution at a meeting (**LGA S440G**). Prior to taking such action Council should consider all issues and points of view before a councillor is censured.

Council may pass a formal censure resolution only if it satisfied that the councillor has misbehaved on one or more occasions. Council must specify in the formal censure resolution the grounds on which it is satisfied that the councillor should be censured (**LGA S440G**).

A motion for a formal censure resolution may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council (**LGA S440G**).

What Constitutes “Serious” Misbehaviour

Examples of more serious misbehaviour includes (but is not limited to):

- Conduct by the Councillor (relating to the carrying out of his or her functions) that is or may be criminal in nature.
- Disruption of a nature so serious that requires the suspension of standing orders at council meetings.

Misuse of Misbehaviour Provisions

External factors such as political or other affiliation should not be an influence when determining such matters. A decision to seek sanction should reflect the concern of the overwhelming majority of the elected body about the conduct of the councillor and its impact on council’s operations.

PART 5 - COUNCIL COMMITTEES

Committee of the Whole

39. (1) 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 provisions limiting the number and duration of speeches and requiring councillors to stand when speaking subject to Clause 28(2). **(Reg 259(1))**
- (2) 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. **(Reg CI 259(2))**
- (3) 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, as Report in Progress, submitted to the council by the General Manager. **(Reg CI 259(3))**

Council May Establish Committees

40. (1) The council may by resolution, establish such committees as it considers necessary. **(Reg CI 260(1))**
- (2) A committee is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council. **(Reg CI 260(2))**
- (3) The quorum for a meeting of 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. **(Reg CI 260(3))**

Functions of Committees

41. The council must specify the functions of each of its Committees when the Committee is established, but may from time to time amend those functions. **(Reg CI 261)**

Notice of Committee Meetings to be Given

42. (1) The General Manager of the Council must send to each Councillor, at least 3 days before each meeting of the committee, a notice specifying:
- (a) the time and place at which and the date on which the meeting is to be held; and
 - (b) the business proposed to be transacted at the meeting. **(Reg CI 262(1))**

- (2) However, notice of less than 3 days may be given of a Committee meeting called in an emergency. **(Reg CI 262(2))**
- (3) The provisions of Clause 17(3)-(4) apply to the business papers and agendas of committee meetings in the same manner as they apply to the business papers and agendas of meetings of the council.

Non-Members Entitled to Attend Committee Meetings

43. (1) A councillor who is not a member of a committee of the council is entitled to attend, and to speak at, a meeting of the committee. **(Reg CI 263(1))**
- (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. **(Reg CI 263(2))**

Representations by Members of the Public - Closure of Part of Meeting

44. Where the committee decides to allow members of the public to make representations to or at a committee meeting, as to whether a part of the meeting should be closed, each member of the public or representative of a group of the public will be limited to speaking for no more than two (2) minutes each.

(LGA - S10A(4) Reg CI 264)

Procedure in Committees

45. (1) Subject to subclause (3), each committee of the council may regulate its own order of business. **(Reg CI 265(1))**
- (2) Without limiting subclause(1), and 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. **(Reg CI 265(2))**
- (3) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands) **(Reg CI 265(3))**.

Committee to Keep Minutes

46. (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.

- (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 council, the person presiding at the later meeting must sign the minutes of the earlier meeting. **(Reg CI 266)**

Chairperson and Deputy Chairperson of committees

47. (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. **(Reg CI 267(1))**
- (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. **(Reg CI 267(2))**
- (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, prior to the consideration of any business, elect a member of the committee to be acting chairperson of the committee. **(Reg CI 267(3))**
- (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 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. **(Reg - CI 267(4))**

Absence from Committee Meetings

48. (1) A member ceases to be a member of a committee if the member (other than the Mayor):
 - (a) has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or
 - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences. **(Reg CI 268)**
- (2) Subclause (1) does not apply if all the members of the council are members of the committee. **(Reg CI 268)**

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

Reports of Committees

49. (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. **(Reg CI 269(1))**
- (2) The recommendations of a committee of the council are, as adopted by the council, resolutions of the council. **(Reg CI 269(2))**
- (3) If a committee of council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the chairperson must:
- (a) make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended; and
- (b) report the resolution or recommendation to the next meeting of the council. **(Reg CI 269(3))**

Disorder in Committee Meetings

50. 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. **(Reg CI 270)**

Committee May Expel Certain Persons from its Meetings

51. (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) or (b) of the Act.
- (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, restrain the member of the public from re-entering that place. **(Reg CI 271)**

Committees Shall Not Have Power to Incur Expenditure

52. A committee of the council shall not have power to incur expenditure or to bind the council. Recommendations or reports of committees shall not have effect unless and until adopted by the council, or unless specific delegations have been conferred by the council in accordance with the Local Government Act 1993 and council's policies.

PART 6 - PECUNIARY INTERESTS

Pecuniary Interest

53. (1) For the purposes of this Part, 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 or another person with whom the person is associated as provided in Clause 57. **(LGA S442(1))**
- (2) 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 a matter or if the interest is of a kind specified in Clause 58. **(LGA S442(2))**

Persons Who Have a Pecuniary Interest

54. (1) For the purposes of this Part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
- (a) the person; or
 - (b) the persons 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. **(LGA S443(1))**
- (2) **(No interest in the matter)** 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 employed by, a council or a statutory body or is employed by the Crown, or is a member of a company or other body that has a pecuniary interest in the matter if the person has no beneficial interest in any share of the company or body.
 - (c) just because the person is a member of, or a delegate of a council, a company or other body that has a pecuniary interest in the matter, so long as the person has not beneficial interest in any shares of the company or body. **(LGA S443(3))**

Interests That Need Not be Declared

55. The following interests do not need to be disclosed for the purposes of this Part:
- (a) an interest as an elector
 - (b) an interest as a ratepayer or a 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 or 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 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 a holder of an office in the club or organisation (whether remunerated or not)
- (f) an interest or 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 permissible uses of:
 - (i) land in which the person or another person with whom the person is associated as provided in LGA s443 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, or adjacent to or in proximity to, land referred to in paragraph (i);if the person or the other person with whom the person is associated 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 or 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 connecting 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 LGA S252.
- (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. **(LGA S448)**

Disclosure and Participation in Meetings

56. (1) A councillor, a member of a council committee or a member of staff who has a pecuniary interest in any matter with which 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 interest to the meeting as soon as practicable. **(LGA S451(1))**
- (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
 - (b) at any time during which the council or committee is voting on any question in relation to the matter. **(LGA S451(2))**
- (3) **General Disclosure**

A general notice given to the General Manager in writing by a councillor or a member of a council committee to the effect that the councillor or member, or the councillor's or member's spouse, de facto partner or relative, is:

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

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

is, unless and until the notice is withdrawn, sufficient disclosure of the councillor's or member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice. **(LGA S454)**

(4) A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee must disclose any pecuniary interest the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an advisor. **(LGA S456(1)&(2))**

(5) A person does not breach this Clause 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. **(LGA S457)**

Disclosures to be recorded

57. A disclosure made at a meeting of the council or council committee must be recorded in the minutes of the meeting. **(LGA S453)**

Non-pecuniary Conflict of Interests

60A. Pursuant to Clause 6 of Council's Code of Conduct, councillors and members of council committees, should disclose and state the nature of any non-pecuniary conflict of interest, at any relevant council or committee meeting. The disclosure and nature of the interest must be recorded in the minutes of the meeting.

PART 7 - PRESS AND PUBLIC

Documentation Available at Meetings

58. (1) The council and each such committee must have available for the public at its offices and at each meeting, copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting. **(LGA S9(2))**
- (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 Clause 63(3) of this Code, with respect to the availability of business papers do not apply to the business papers for that item of business. **(LGA S9(2A))**
- (3) The copies are to be available to the press and public as nearly as possible to the time they are available to councillors. **(LGA S9(3))**
- (4) A notice given under the section or a copy of an agenda or of a business paper made available under this section may in addition be given or made available in electronic form. **(LGA S9(5))**
- (5) The copies are to be available free of charge. **(LGA S9(4))**

Attendance at Meetings of the Council

59. (1) (a) Everyone is entitled to attend a meeting of the council and those of its standing committees where all the members are councillors. **(LGA S10)** The council may permit television cameras or audiotapes, operated by recognised media, to record proceedings of open council and open committee meetings.
- (b) The council must ensure that all meeting of the council and its committees are open to the public. **(LGA S10(1)(b))**
- (c) However, a person (whether a councillor or another person) is not entitled to be present at a meeting of the Council or a Committee if expelled under Clause 41 of this Code. **(LGA S10(2))**

Closure to the Public:

- (2) (A) The council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises;
- (a) the discussion of any of the information listed in sub-clause (2)(B), or;

- (b) the receipt or discussion of any of the information so listed.
- (B) For the purposes of Clause (2)(A), the matters and information are the following;
- (a) personnel matters concerning particular individuals (other than councillors),
 - (b) the personal hardship of any resident or ratepayers,
 - (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 production in legal proceedings on the ground of legal professional privilege,
 - (h) information concerning the location of a place or an item of Aboriginal significance on community land. **(LGA S10A(1)(2))**
- (C) A council, or a committee of the council of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public. **(LGA S10A(3))**
- (D) Members of the public may be allowed 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. **(LGA S10A(4))**
- (E) A meeting is not to remain closed during the discussion of anything referred to in Clause 62(2)(B) of this Code:
- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
 - (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayers or a trade secret unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest. **(LGA S10B(1))**

- (F) A meeting is not to be closed during the receipt and consideration of information or advice referred to in Clause 62(2)(B)(g) unless the advice concerns legal matters that are:
- (a) substantial issues relating to a matter in which the council or committee is involved, and
 - (b) clearly identified in the advice, and
 - (c) fully discussed in that advice. **(LGA S10B(2))**
- (G) 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 62(2)(B)), 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 62(2)(B)). **(LGA S10B(3))**
- (H) 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 cause:
 - (i) embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
 - (ii) a loss of confidence in the council or committee. **(LGA S10B(4))**
- (I) 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. **(LGA S10B(5))**
- (J) 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 62(2)(B), and
 - (b) the council or committee, after considering any representations made under Clause 62(2)(D), resolves that further discussion of the matter should:
 - (i) not be deferred (because of the urgency of the matter), and
 - (ii) take place in a part of the meeting that is closed to the public. **(LGA S10(C))**
- (K) (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.

- (2) The grounds must specify the following:
 - (a) the relevant provision of Clause 62(2)(B),
 - (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. **(LGA S10(D))**

Public Access to Correspondence and Reports

60. (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. **(LGA S11(1))**
- (2) This Clause does not apply if the correspondence or reports:
 - (a) relate to a matter that was received or discussed; or
 - (b) were laid on the table at, or submitted to, the meeting when the meeting was closed to the public. **(LGA S11(2))**
- (3) This Clause does not apply if the council or committee resolved at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in Clause 62(2), are to be treated as confidential. **(LGA S11(3))**

PART 8 - MISCELLANEOUS

Information Relating to Proceedings at Closed Meetings Not to be Disclosed

61. (1) If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with Clause 62(2), a person must not, without the authority of the council, or the committee disclose, otherwise than to the council or to a councillor, information with respect to the discussion at, or the business of, the meeting. **(LGA S664(1A))**
- (2) This Clause does not apply to the:
- (a) report of a committee of the council after it has been presented to the council; or **(LGA S664(1B)(a))**
 - (b) disclosure made:
 - i) with the consent of the person from whom the information was obtained; or
 - ii) in connection with the administration or execution of this Act; or
 - iii) for the purpose of any legal proceedings arising out of this Act or of any report of any such proceedings; or
 - iv) in accordance with a requirement imposed under the Ombudsman Act 1974 or the Freedom of Information Act 1989; or
 - v) with other lawful excuse.
 - (c) disclosure made in circumstances prescribed by the regulations, or
 - (d) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with Section 12 of the Local Government Act. **(LGA S664(1B))**

Inspection of the Minutes of the Council or a Committee

62. (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. **(Reg CI 272(1))**
- (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. **(Reg CI 272(2))**

Note: Section 12 of the Act confers a right to inspect the minutes of a council or committee of a council.

Access to Records

63. (1) Councillors have access to council records under Section 12 (Public information) and 12A (Restriction of access) of the Local Government Act 1993.

- (2) The General Manager may allow or refuse to allow any councillor to inspect any record of the council that the councillor requests to see. **(Reg CI 41(1))**
- (3) If the General Manager refuses to allow a councillor to inspect any such record, the councillor may, at a meeting of the council, move for the production of the document. However, the councillor must give notice of intention to move the motion. **(Reg CI 41(2))**
- (4) If the council passes a motion for the production of a council record, the council must ensure that the record:
 - (a) is produced immediately and laid on the table for inspection by the councillors; and
 - (b) is made available for inspection by any councillor on reasonable notice to the general manager during the council's ordinary office hours on any day that is within 1 month after the passing of the motion. **(Reg CI 41 (3))**

Tape Recording of Meeting of the Council or a Committee Prohibited Without Permission

64. (1) A person may use a tape recorder to record the proceedings of an open meeting of the council or a committee of a council only with the authority of the council or committee. **(Reg CI 273(1))**
- (2) A person may be expelled from a council meeting or committee meeting by a resolution of the meeting for having used a tape recorder in contravention of this Clause. **(Reg CI 273(2))**
- Note:** Clause 63(1) permits television cameras or audiotapes to be operated by recognised media with the authority of the council or committee.
- (3) If any such person, after being notified of a 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 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. **(Reg CI 273(3))**
- (4) In this Clause, **tape recorder** includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not. **(Reg CI 273(4))** Clause 63(1) is the only exception to this part

Certain Circumstances Do Not Invalidate Council Decisions

65. 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 members; 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 to refrain from the consideration or discussion of,

or vote on, the relevant matter at a council or committee meeting in accordance with S451 of the Local Government Act, or

- (e) a failure to comply with this Code. **(LGA S374)**

Matters Not in the Code

66. Where at a council meeting, meeting practice matters arise which are in all cases not provided for in this Code resort shall be had to the rules, forms, and usages of the Legislative Assembly of New South Wales in force for the time being, so far as the same are applicable to proceedings of the council.

Submissions to Committee and Council Deferring Decision

67. When a matter is before a meeting of council for consideration and the chairman permits the committee or council to be addressed by a supporter or opposer to a development or building proposal, a decision by the meeting at which the address is given may be deferred pending referral to the General Manager or the respective director for a further report to the next meeting as appropriate.

Note: (Reasons for this are such that the person making the presentation to the respective meeting, may present new information which has not been taken into consideration by the council or the officer concerned)

Attendance of General Manager at Meetings

68. (1) The General Manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all the members are councillors. **(LGA S376(1))**
- (2) The General Manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote. **(LGA S376(2))**
- (3) However, the General Manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard performance of the general manager or the terms of the employment of the general manager. **(LGA S376(3))**
- (4) The General Manager (or his substitute) will attend each council and committee meeting.

Common Seal

69. (1) The General Manager shall have the custody of the Common Seal. The Common Seal and the press, to which the same is attached except when such seal and press are in use, shall be kept locked; or shall be otherwise secured. **(LG GenReg 2005 (Cl.277))**
- (2) The Seal of the Council may be affixed to a document only in the presence of:
- (a) the Mayor and the General Manager, or
 - (b) at least one councillor (other than the Mayor) and the General Manager or,

- (e) the Mayor and at least one other councillor, or
 - (f) at least 2 councillors other than the Mayor.
- (3) The affixing of the Council Seal has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (2)) attest by their signatures that the seal was affixed in their presence.
- (4) 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.
- (5) For the purposes of subclause (4), 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.

Amendment of Code

70. Amendments to the Code may be made from time to time to reflect legislative requirements and best practice. Amendments that substantially alter the Code will require public notice and exhibition of the Code as stipulated in S361 of the Local Government Act 1993. **(LGA s361)**

SCHEDULE A

(Reference: Clause 16(1))

AGENDA

Ordinary Council Meetings

1. Opening of Meeting and Prayer
2. Present
3. Apologies & Applications for Leave
4. Confirmation of the Previous Minutes
5. Declarations of Pecuniary Interests and Conflicts of Interest
6. Petitions and Memorials
7. Presentations/Public Addresses
8. Mayoral Reports
9. Motions with Notice
10. Delegates Reports
11. Committee Meeting Reports
12. Officer Reports
13. Questions Without Notice
14. Date and Venue of the Next Meeting