



# Code of Meeting Practice

*Local Government Act 1993  
Local Government (General) Regulation 2005  
Local Government Amendment (Miscellaneous) Act 2006*

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## INDEX

<b>CONTROLLED DOCUMENT INFORMATION:</b> .....	<b>2</b>
<b>VERSION HISTORY:</b> .....	<b>2</b>
<b>CODE OF MEETING PRACTICE</b> .....	<b>6</b>
<b>1. COUNCIL MEETINGS</b> .....	<b>7</b>
1.1 HOW OFTEN DOES COUNCIL MEET? .....	7
1.2 DATE AND TIMES? .....	7
1.3 HOW DO YOU CALL AN EXTRAORDINARY MEETING? .....	7
1.4 AGENDA FOR EXTRA ORDINARY MEETINGS .....	8
<b>2. NOTICE OF MEETINGS</b> .....	<b>9</b>
2.1 GIVING NOTICE OF BUSINESS .....	9
2.2 PUBLIC NOTICE OF MEETINGS .....	10
2.3 PROCEDURE FOR GIVING NOTICE .....	10
<b>3. PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS</b> .....	<b>12</b>
3.1 WHO PRESIDES AT MEETINGS OF THE COUNCIL .....	12
3.2 COUNCILLORS MAY BE ELECTED TO PRESIDE AT CERTAIN MEETINGS.....	12
3.3 TO ELECT THE DEPUTY MAYOR .....	13
3.4 CHAIRPERSON TO HAVE PRECEDENCE .....	13
3.5 CHAIRPERSON'S DUTY WITH RESPECT TO MOTIONS.....	14
3.6 WHAT IS THE QUORUM OF A MEETING? .....	14
3.7 PROCEDURE WHEN A QUORUM IS NOT PRESENT. ....	14
<b>4. ATTENDANCE AT MEETINGS</b> .....	<b>15</b>
4.1 APOLOGIES FOR NON-ATTENDANCE.....	15
4.2 LEAVE OF ABSENCE.....	15
4.3 ATTENDANCE OF GENERAL MANAGER AT MEETINGS.....	16
4.4 WHO IS ENTITLED TO ATTEND? .....	16
4.5 WHICH PARTS OF A MEETING CAN BE CLOSED TO THE PUBLIC? .....	16
4.6 REASONS FOR CLOSING PARTS OF MEETINGS.....	18
4.7 INFORMATION RELATING TO PROCEEDINGS AT CLOSED MEETINGS NOT TO BE DISCLOSED.....	18
4.8 RESOLUTIONS PASSED AT CLOSED MEETINGS TO BE MADE PUBLIC .....	18
4.9 REPRESENTATIONS BY MEMBERS OF THE PUBLIC - CLOSURE OF PART OF MEETING 19	
<b>5. PUBLIC ACCESS TO CORRESPONDENCE AND REPORTS</b> .....	<b>20</b>
5.1 TIME LIMITS FOR RELEASING INFORMATION FROM CLOSED MEETINGS .....	20
5.2 PUBLIC ACCESS TO ADDRESS COUNCIL .....	21
5.3 SUBMISSION RECEIVED FROM THE PUBLIC .....	22
<b>6. AGENDA AND BUSINESS PAPERS FOR COUNCIL MEETINGS</b> .....	<b>23</b>
6.1 GIVING NOTICE OF BUSINESS .....	24
6.2 AGENDA AND BUSINESS PAPER FOR EXTRAORDINARY MEETING.....	25
6.3 ORDER OF BUSINESS.....	25
6.4 REPORT OF A DEPARTMENTAL REPRESENTATIVE TO BE TABLED AT A COUNCIL MEETING .....	27



<b>7. PARTICIPATION AT MEETINGS.....</b>	<b>28</b>
7.1 NOTICE OF MOTION .....	28
7.2 NOTICE OF MOTION – ABSENCE OF MOVER .....	28
7.3 MOTIONS TO BE SECONDED .....	28
7.4 AMENDMENTS MAY BE MOVED.....	29
7.5 HOW SUBSEQUENT AMENDMENTS MAY BE MOVED.....	29
7.6 FORESHADOWED AMENDMENTS .....	29
7.7 MOTION OF DISSENT.....	29
7.8 MOTIONS MAY BE PUT WITHOUT DEBATE .....	30
7.9 QUESTIONS MAY BE PUT TO COUNCILLORS AND COUNCIL EMPLOYEES.....	30
7.10 LIMITATION AS TO NUMBER OF SPEECHES .....	30
7.11 VOTING AT COUNCIL MEETINGS .....	31
7.12 WHAT ARE THE VOTING ENTITLEMENTS OF COUNCILLORS? .....	32
<b>8.0 WHAT CONSTITUTES A DECISION OF COUNCIL? .....</b>	<b>33</b>
8.1 MAYORAL MINUTES .....	33
8.2 OFFICIAL MINUTES – RECORDING OF .....	33
8.3 MATTERS TO BE INCLUDED IN MINUTES OF COUNCIL MEETING .....	34
8.4 MINUTES OF A COMMITTEE MEETING .....	34
8.5 INSPECTION OF THE MINUTES OF A COUNCIL OR COMMITTEE MEETING.....	34
8.6 MINUTES IN EVIDENCE .....	35
8.7 RESCINDING OR ALTERING RESOLUTIONS .....	35
8.8 CERTAIN CIRCUMSTANCES DO NOT INVALIDATE COUNCIL DECISIONS .....	36
<b>9.0 KEEPING ORDER AT MEETINGS .....</b>	<b>37</b>
9.1 QUESTIONS OF ORDER .....	37
9.2 ACTS OF DISORDER.....	37
9.3 HOW DISORDER AT A MEETING MAY BE DEALT WITH .....	38
9.4 POWER TO REMOVE PERSONS FROM MEETING AFTER EXPULSION RESOLUTION.....	38
<b>10.0 COUNCIL COMMITTEES .....</b>	<b>40</b>
10.1 COMMITTEE OF THE WHOLE .....	40
10.2 COMMITTEES TO KEEP MINUTES.....	40
10.3 COUNCIL MAY APPOINT COMMITTEES.....	41
10.4 FUNCTIONS OF COMMITTEES .....	41
10.5 NOTICE OF COMMITTEE MEETINGS TO BE GIVEN.....	41
10.6 NON MEMBERS ENTITLED TO ATTEND COMMITTEE MEETINGS.....	41
10.7 REPRESENTATIONS BY MEMBERS OF THE PUBLIC - CLOSURE OF PART OF MEETING .....	42
10.8 PROCEDURE IN COMMITTEE MEETINGS .....	42
10.9 CHAIRPERSON AND DEPUTY CHAIRPERSON OF COMMITTEES .....	42
10.10 ABSENCE FROM COMMITTEE MEETINGS.....	43
10.11 REPORTS OF COMMITTEES .....	43
10.12 DISORDER IN COMMITTEE MEETINGS.....	43
10.13 COMMITTEE MAY EXPEL CERTAIN PERSONS FROM ITS MEETINGS .....	43
<b>11. DISCLOSURE OF PECUNIARY AND NON- PECUNIARY INTEREST ....</b>	<b>45</b>
11.1 WHAT IS A PECUNIARY INTEREST? .....	45
11.2 WHO HAS A PECUNIARY INTEREST? .....	45
11.3 DISCLOSURE OF AND PRESENCE AT MEETINGS .....	45
11.4 PECUNIARY INTEREST (OF COUNCILLORS) IN COMMITTEE .....	46
11.5 PECUNIARY INTEREST OBLIGATIONS TO BE NOTED ON BUSINESS PAPER .....	46

11.6	PECUNIARY INTEREST COUNCIL EMPLOYEES .....	47
11.7	PECUNIARY INTEREST – MATERIAL TO BE WITH HELD .....	47
11.8	RECORDING OF DECLARATION .....	48
11.9	NO KNOWLEDGE .....	48
11.10	COUNCIL ADVISERS DISCLOSURES.....	48
11.11	PECUNIARY INTERESTS THAT NEED NOT BE DECLARED .....	49
11.12	POWERS OF THE MINISTER IN RELATION TO MEETINGS .....	50
11.13	NON-PECUNIARY INTEREST .....	51
11.14	NON-PECUNIARY INTEREST COUNCIL EMPLOYEES .....	51
<b>12.</b>	<b>COUNCIL SEAL.....</b>	<b>52</b>
<b>13.</b>	<b>TAPE RECORDING OF COUNCIL/COMMITTEE MEETINGS.....</b>	<b>53</b>
<b>14.</b>	<b>TABLING OF DOCUMENTS.....</b>	<b>54</b>
<b>15.</b>	<b>MOBILE PHONES .....</b>	<b>54</b>

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## CODE OF MEETING PRACTICE

This Code of Meeting Practice has been established by Council in accordance with the provisions of Section 360 (2) *Local Government Act 1993*, together with other provisions of the Act, *Local Government (General) Regulations 2005* and Council policies.

The objective of the Code is to provide procedures and standards for the proper conduct of business by Council and Committees of the Council, ensuring maximum openness of all Council and Committee meetings and opportunity for public input and participation.

The Code contains notes, which are provided as references to help with interpretation of the document. The notes are shown in italic style and in brackets eg.

**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 Section 368)**

**(NOTE: Quorum for Port Stephens Council is 6)**

Where references are made to the Act and Regulations, the sections referred to may not include the full wording of the Act or Regulations.

The Code of Meeting Practice consists of the *Local Government (General) Regulations 2005* plus supplementary provisions adopted by Council. The changes to the Regulations therefore automatically change the Code. Pages in the Code will be dated so that any changes to the Code either by way of legislation or amendment by the Council can be easily identified.

The automatic amendment of the Code by the Regulation does not require public notification under sections 361-363 of the *Local Government Act 1993*. However, any substantial amendment of the supplementary provisions will require public notification.

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NOTE:        “LGA” means Local Government Act 1993  
              “Regulation” means Local Government (General) Regulations 2005

## **1. COUNCIL MEETINGS**

### **1.1 How Often Does Council Meet?**

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

(LGA Section 365)

2. Meetings will normally be held in the Council Chambers, Administration Centre, 116 Adelaide Street, Raymond Terrace. However, Council may determine to meet at other locations throughout the Council area from time to time and will advertise these details as required by this Code.

(Council Policy)

### **1.2 Date and Times?**

1. At a Council Meeting held in September each year, or at the first meeting following a general election of Councillors, Council decides on the dates and times for meetings of Council and Committees for the succeeding twelve months.

The following arrangements currently apply:

**Council Meeting** - 2<sup>nd</sup> and 4<sup>th</sup> Tuesday in each month commencing at 5.30pm.

### **1.3 How do you Call an Extraordinary Meeting?**

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

(LGA Section 366)

2. Any request submitted in accordance with subclause 1 of this clause must clearly nominate the business to be transacted at the meeting.

3. Council may resolve to hold extraordinary meetings as and when required, subject to the provisions of this Code.

4. The Mayor, in consultation with the General Manager, may call an extraordinary meeting to complete Council business or deal with any item of urgency.

(Council Policy)

#### **1.4 Agenda for Extra Ordinary Meetings**

The General Manager must ensure that the Agenda for an extra ordinary meeting of Council deals only with the matters stated in the notice of the meeting except where provided by Clause 2 of this Code.

(See also Clause 6.2) & (Min 210 19/5/98)

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## **2. NOTICE OF MEETINGS**

- a) The General Manager must send to each Councillor, at least three (3) days (weekends will be counted as days of notice, in the 3 days) before each meeting of the Council or Committee, a notice specifying the date, time and place at which the meeting is to be held and the business proposed to be transacted at the meeting. The Notice may be provided by way of hardcopy or electronic format.
- b) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.
- c) A notice under this section and the agenda for, and the business papers relating to, the meeting may be given to a Councillor in electronic form but only if all Councillors have facilities to access the notice, agenda and business paper in that form and prior arrangements have been made to receive documents in that form.

(LGA Section 367 & Council Policy)

### **2.1 Giving Notice of Business**

- a) Council must not transact business at a meeting of the Council:-
  - i) unless a Councillor has received notice in writing in accordance of Clause 2 of this Code; and
  - ii) unless notice of the business has been sent to the Councillors in accordance with Section 367 of the *Local Government Act 1993*.

(LG (Gen) Reg 2005 CI 241)
  - iii) unless a councillor has given notice of the business in writing seven (7) business days prior to a Council or committee meeting.

(Min 210 19/5/98, Min 322 12/11/13 & Min 324 27/10/15)
- b) Subclause 2.1 (a), does not apply to the consideration of business at a meeting if the business:
  - i) is already before, or directly relates to a matter that is already before, the council, or
  - ii) is the election of a chairperson to preside at the meeting as provided by clause 236 (1)

- iii) is a matter or topic put to the meeting by the chairperson in accordance with clause 243, or
- iv) is a motion for the adoption of recommendations of a committee of the Council.
- c) Despite Clause 2.1 (a), business may be transacted at a meeting of Council even if due notice has not been given if:-
  - i) a motion is passed to have the business transacted at the meeting [this is a motion which can be moved without notice] and;
  - ii) 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.

- d) Despite Clause 250, only the mover of a motion referred to in sub clause (c) can speak to the motion before it is put.

(LG (Gen) Reg 2005 Cl 241)

## **2.2 Public Notice of Meetings**

- a) Council will give notice to the public of the times, dates and places of its Ordinary meetings and those Committees of which all the members are Councillors.
- b) Copies of the Business Paper are to be available to the public at Council's offices and at each meeting for inspection or taking away. This does not apply to business or any correspondence or reports in a business paper that, in the opinion of the General Manager, are likely to be the subject of a resolution that they be treated as confidential.

(Min056 13/2/96)

- c) The copies are to be available to the public as close to the time as they are available to the Councillors.
- d) Copies of Council's Business Paper will be available free of charge.
- e) The Council's Business Paper may be supplied in electronic form.

(LGA Section 9 & LG (Gen) Reg 2005 Cl.232)

## **2.3 Procedure for Giving Notice**

The manner in which the requirements of Section 9(1) of the Act (Clause 2.2 a) above) are to be complied with are:-

- a) A notice of a meeting of council or a committee must be published in the Examiner before the meeting takes place and/or a yearly notification of meeting dates following September meeting of Council setting the dates for the preceding year. Council's website will also provide Committee and Council meeting details.
- b) The notice must specify the time and place of the meeting.
- c) Notice of more than one meeting may be given in the same notice.

This clause does not apply to an extraordinary meeting of a council or committee.

(LG (Gen) Reg 2005 CI 232) (Min 210 19/5/98)

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### **3. PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS**

#### **3.1 Who presides at Meetings of the Council**

- a) The Mayor, or at the request of or in the absence of the Mayor, the Deputy Mayor (if any), presides at meetings of the Council.
- b) If the Mayor and Deputy Mayor are absent, a Councillor elected to chair the meeting by the Councillors present, presides at the meeting of the Council.  
(LGA Section 369)
- c) If the Mayor declares an interest in any matter being dealt with at a meeting, the Mayor will vacate the chair immediately prior to that item being considered and the Deputy Mayor will chair the meeting for consideration of that item.
- d) If both the Mayor and Deputy Mayor declare an interest in any matter being dealt with at a meeting, the Mayor will vacate the chair immediately prior to that item being considered and a Chairperson will be elected to chair the meeting for the consideration of the item in accordance with clause 3.2 of this Code.
- e) In cases where, in c) and d) above, the interest being declared is a pecuniary interest, the provisions of Section 11 of the Code shall apply.
- f) The provisions of subclauses c), d) and e) of this Clause shall apply if the Mayor or Deputy Mayor is Chairpersons of Committees of the Council.  
(LGA Section 451 and Council policy)

#### **3.2 Councillors May be Elected to Preside at Certain Meetings**

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

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

- b) The election must be conducted:
  - i) 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
  - ii) 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.

- c) If, at an election of a Chairperson, two (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.
- d) For the purposes of subclause c), the person conducting the election must:
  - i) Arrange for the names of the candidates who have equal number of votes to be written on similar slips, and
  - ii) Then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- e) The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.

(LG (Gen) Reg 2005 Cl 236)

### **3.3 To Elect the Deputy Mayor**

- a) The election of the Deputy Mayor can be held at any meeting of the Council in September (of each year) or at another time as determined by Council and in accordance with the *Local Government Act 1993*.
- b) Nominations are to be announced and elections conducted at the same meeting.
- c) Nominations must be in writing by two or more Councillors, one of whom may be the nominee.
- d) The Council must resolve the method of voting.
  - ◆ Preferential ballot (secret ballot)
  - ◆ Ordinary Ballot (secret ballot)
  - ◆ Open Voting
- e) Nominations in writing can be submitted, without notice, to the General Manager any time up to and including the night of the election.
- f) Candidates are to be eliminated by the lowest number of votes or where tied, chosen by lot; the one drawn from the lot is excluded. Where two candidates remain, the lowest number will be excluded or where tied, chosen by lot, the one drawn will be elected.

(Min 512 10/10/95)

### **3.4 Chairperson to have Precedence**

- a) When the Chairperson rises during a meeting of the Council:-

- i) any Councillor then speaking or seeking to speak must , if standing, immediately resume his or her seat, and
- ii) every Councillor present must be silent to enable the Chairperson to be heard without interruption.

(LG (Gen) Reg 2005 CI 237)

### **3.5 Chairperson's Duty with Respect to Motions**

- a) It is the duty of the Chairperson at a meeting to receive and put to the meeting any lawful motion that is brought before the meeting.
- b) The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- c) Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.

(LG (Gen) Reg 2005 CI 238)

### **3.6 What is the Quorum of a Meeting?**

The quorum for a meeting of the Council and a Committee is a majority of the Councillors who hold office and are not suspended from office.

(LGA Section 368)

*(NOTE: A quorum for Port Stephens Council is 6)*

### **3.7 Procedure when a Quorum is not Present.**

- a) A meeting of a Council or Committee must be adjourned if a quorum is not present:-
  - i) within half an hour after the time designated for the holding of the meeting; or
  - ii) at any time during the meeting.
- b) In either case, the meeting must be adjourned to a time, date and place, fixed:-
  - i) by the chairperson; or
  - ii) in his or her absence - by the majority of the Councillors present; or
  - iii) failing that, by the General Manager.
- c) The Minute Clerk is to record in the Council's minutes (on behalf of the General Manager) the circumstances relating to the absence of a quorum, (giving reasons) at or arising during a meeting of the Council, together with the names of the Councillors present.(LG (Gen) Reg 2005 CI 233)



## **4. ATTENDANCE AT MEETINGS**

### **4.1 Apologies for non-attendance**

- i) Where possible, a Councillor shall submit an apology for non-attendance at any Council or Committee of the Council meeting.
- ii) Apologies may be communicated verbally to the Mayor, meeting Chairperson, General Manager or Governance Manager.

### **4.2 Leave of Absence**

- i) Should a Councillor know a period of pending absence from meetings due to ill health, business, annual leave or the like, a request for leave of absence stating the period of absence should be submitted to Council for approval.

*(Note: Section 234 of the Act provides, inter alia, that a civic office becomes vacant if the holder;*

*“d.) is absent without prior leave of the Council from 3 consecutive ordinary meetings of the Council.”*

- ii) A Councillor applying for a leave of absence from a Council meeting or meetings does not need to make the application in person and the Council may grant the leave in the absence of that Councillor. In this instance, verbal advice is to be provided to the General Manager prior to the meeting. The General Manager will advise the meeting of any absences.
- iii) If the holder of a civic office attends a council meeting (whether or not an ordinary meeting) despite having been granted leave of absence, the leave of absence is taken to have been rescinded as regards any future council meeting.
- iv) Subsection (iii) does not prevent the council from granting further leave of absence in respect of any future council meeting.

(LGA Section 234)

- v) If a Councillor is absent, with or without leave of the Council, from ordinary meetings of the Council for any period of more than three months, the Council must not pay any annual fee or part of an annual fee to the Councillor that relates to the period in excess of 3 months.

(LGA Section 254A)

#### **4.3 Attendance of General Manager at meetings**

- i) 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.
- ii) 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.
- iii) 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 of performance of the General Manager or the terms of the employment of the General Manager.

(LGA Section 376)

#### **4.4 Who is entitled to attend?**

- i) Everyone is entitled to attend a meeting of the Council and those of its Committees of which all the members are Councillors, except as provided in this Code.
- ii) Council must ensure that all meetings of the Council and of such Committees are open to the public.
- iii) However, a person (whether a Councillor or another person) is not entitled to be present at a meeting of the Council or of such committee if expelled from the meeting:
  - a) by a resolution of the meeting, or
  - b) by the person presiding at the meeting if the Council has, by resolution, authorised the person presiding to exercise the power of expulsion.
- iv) A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the Regulations.

(LGA Section 10)

#### **4.5 Which parts of a meeting can be closed to the Public?**

- 1) 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:
  - i) the discussion of any of the matters listed in subclause (2), or
  - ii) the receipt or discussion of any of the information so listed.
- 2) The matters and information are the following:

- i) personnel matters concerning particular individuals other than Councillors;  
(LGA Section 10A(2)(a))
  - ii) the personal hardship of any resident or ratepayer;  
(LGA Section 10A(2)(b))
  - iii) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business;  
(LGA Section 10A(2)(c))
  - iv) commercial information of a confidential nature that would, if disclosed:
    - prejudice the commercial position of the person who supplied it, or
    - confer a commercial advantage on a competitor of the council, or
    - reveal a trade secret.  
(LGA Section 10A(2)(d))
  - v) information that would, if disclosed, prejudice the maintenance of the law.  
(LGA Section 10A(2)(e))
  - vi) Matters affecting the security of the Council, Councillors, Council staff, or Council property.  
(LGA Section 10A(2)(f))
  - vii) Advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.  
(LGA Section 10A(2)(g))
  - viii) Information concerning the nature and location of a place or an item of aboriginal significance on community land.  
(LGA Section 10A(2)(h))
- 3) Council meetings and Committee of the Council meetings are not to be closed to the public to discuss personnel matters concerning a Councillor, such as the payment of travel claims or the fees and expenses policy. These topics should be discussed in open Council.  
(LGA Section 10A)

*(NOTE: Note the provision of Local Government Act Section 10B and 10C)*

- 4) the council or committee must specify the grounds for closing part of a meeting and this must be recorded in the minutes. In particular, it must specify:
- i) the relevant provision of section 10A(2) of the Act under which the part is being closed;
  - ii) the matter to be discussed during the closed part of the meeting; and
  - iii) the reasons why it is being closed, including an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest. [Department of Local Government Open Meeting Guidelines February 1998] (Min 210 19/5/98).

- 5) A person (whether a Councillor or another person) is not entitled to be present at a meeting if expelled from the meeting.
  - i) a person may be expelled by resolution of the meeting; or
  - ii) the Council may authorise the presiding chairperson to exercise power of expulsion.

#### **4.6 Reasons for closing parts of meetings**

The Division of Local Government Meeting Practice Note No. 16, Part 7 are to be used as a guide when stating reasons for closing parts of meetings. Parts of council and committee meetings should be closed to the public only in the circumstances provided by Section 10A(2) of the *Local Government Act*.  
(Min 210 19/5/98)

#### **4.7 Information relating to Proceedings at Closed Meetings not to be Disclosed**

- a) If a meeting or a part of a meeting of a Council or a Committee meeting is closed to the public in accordance with this Code, a person must not, without the authority of the Council or Committee, disclose, information with respect to the discussion at, or the business of the meeting, unless he/she is speaking with another Councillor.
- b) This clause does not apply to:-
  - i) the recommendation of a Committee (comprising of Councillors only) or the resolution of Council during a closed meeting unless impracticable due to commercial or legal issues.  
(Min 056 13/2/96)
  - ii) the disclosure of information by a Councillor or employee of the Council in the course of the Councillor's or employee's duties.

#### **4.8 Resolutions passed at Closed Meetings to be made Public**

If Council passes a resolution during a meeting, or 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 unless impracticable due to commercial or legal issues.

(LG (Gen) Reg 2005 CI 253 & Council Policy (Min 056 13/2/96))

#### **4.9 Representations by members of the public - closure of part of meeting**

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

(LG(Gen) Reg 2005 CI 252)
3. Council will hear representations by a member of the public as to whether a part of the meeting should be closed to the public. The following procedure is designed to enable the council or committee to gauge the views of the members of the public.
  - a) After a motion to close a part of a meeting to the public has been moved and seconded, the chairperson will ask the general manager if there are any written representations from the public on the proposed closure;
  - b) Copies of such written representations will be placed in the Councillors green folders prior to the meeting and where possible placed on the business paper agenda;
  - c) The chairperson will ask if any persons from the public gallery wish to make verbal representations;
  - d) The opportunity to speak will be given to:-
    - ◆ up to two persons for and two persons against - chosen in random order.
  - e) Each person addressing the council may be allowed to speak for a maximum of 2 minutes per person;
  - f) The council or committee may then close the meeting under Section 10A(3) of the Act to consider whether part of the meeting should be closed to the public to consider the subject item.

(Council Policy)

## **5. PUBLIC ACCESS TO CORRESPONDENCE AND REPORTS**

- a) Minutes of Council and Committee meetings, but restricted (in the case of any meeting or part of a meeting that is closed to the public) to minutes of:-
  - i) the recommendations of the meeting, other than recommendations concerning the proposed acquisition of land at a public auction; and
  - ii) such other matters as the Council or Committee resolves should be made public.
- b) Departmental representatives' reports presented at a meeting of the Council in accordance with Section 433 of the *Local Government Act*.
- c) Reasonable access to any person wishing to inspect correspondence or reports laid on the table or submitted to a Council or Committee meeting (of which all the members are Councillors) must be given during or at the close of the meeting, or the following day.
- d) This clause does not apply if the correspondence or reports:-
  - i) relate to a matter that was received or discussed; or
  - ii) were laid on the table at, or submitted to, a meeting;

when the meeting was closed to the public and would not be practicable due to commercial or legal issues.

(Min 056 13/2/96)

### **5.1 Time limits for releasing information from closed meetings**

- a) The time at which information in the business papers and minutes of a closed part of a meeting may be released to the public must be specified in the motion to close a meeting to the public.
- b) Council may by resolution, alter a date for the release of information from a closed part of a meeting, to an earlier date but not delay it to a later date.
- c) Records of the parts of closed meetings dealing with matters of personal hardship, personnel matters, trade secrets or matters that cannot be lawfully disclosed are exempted from ever being made public because of their confidential nature.

(Min 210 19/5/98)



## 5.2 Public Access to Address Council

No automatic right exists to address Council. Persons wishing to address Council should seek approval from the Mayor, or in the case of his/her absence, the Acting Mayor.

(Min 472 27/8/96)

Applications for public access shall be in writing and must be received by 12 noon the Monday prior to the Council meeting on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday. The application should include details of the matter to be discussed and the speaker's interest in the matter.

Public Access is limited to *five minutes* (Min 1016 22/4/97) with an extension for Councillors to direct questions to the speaker. No more than two speakers for a subject and two speakers against a subject (ie four speakers on one subject) will be permitted.

(Min 472 27/8/96)

Public Access occurs prior to Council meetings on the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of every month. A maximum of twelve (12) Public Access applications will be approved each month at the Mayor's discretion.

Applicants for public access will be advised whether their application has been approved and the date of the meeting.

Members of the public are able to speak at Committee/Council Meetings by resolution of the Committee/Council, and agreement of the Mayor.

(Min 397 16/12/08 & Min 324 27/10/15)

### ♦ Late Applications (Min 472 27/8/96)

1. Applicants who submit an application after 12.00 on the Monday prior to the Committee meeting where public access is proposed will generally be refused.

(Min 399 24/11/09)

2. However, where unusual circumstances exist, the Mayor may at his/her discretion, advise the Council that a public access application has been received. Council has the option to defer the matter so that public access can be granted.

### **5.3 Submission received from the Public**

1. Submissions received by Councillors on planning matters at Council/Committee meetings will be referred to staff for comment prior to a Council decision on the matter.

(Council Policy)

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## **6. AGENDA AND BUSINESS PAPERS FOR COUNCIL MEETINGS**

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 proceeding 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.
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.
3. The General Manager must cause the agenda for a meeting of the Council or a Committee of the Council to be prepared as soon as practicable before the meeting.
4. The General Manager must ensure that the details of any item of business to which Section 9 (2A) of the Act applies are included in a business paper for the meeting concerned.
5. Nothing in this clause limits the power of the Chairperson under Clause 243 (*of the Regulation*)

*(Note: Clause 243 of the Regulation refers to Official Minutes, including Chairperson (Mayoral) Minutes and as provided in Clauses 8.1 & 8.2 of this Code)*

(LG (Gen) Reg 2005 Cl 240)

6. 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 such 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 subsection (2) (of section 9 LGA) with respect to the availability of the business papers do not apply to the business papers for that item of business.

(LGA Section 9 (2A))

7. Agendas and business papers will be prepared and distributed to Councillors at least three (3) days prior to the meeting (weekends are included in the 3 days notice).
8. Items of extreme urgency or containing necessary information to enable Councillors to consider a matter listed on the agenda will be exempted from the provisions of subclause 6 only with the permission of the Mayor and General Manager.
9. The "Meeting Procedure – Summary Sheet" shown at **ATTACHMENT 3** be included in the business paper as a reference guide for Councillors.
10. An application to call up a development application to Council by Councillors is required to be in writing, signed by one (1) Councillor and provide reasons why the development application is being called up to Council.
11. Mayoral Minutes recognise the special role of the Mayor. Mayoral Minutes allow the Mayor to put any matter to Council to deal with under the *Local Government Act* or any other legislation, or any matter brought to the attention of the Mayor or the General Manager.

Mayoral Minutes should not be used to introduce, without notice, matters that are routine, not urgent or need research or due consideration by the Councillors.

(Min 399 24/11/09)

## **6.1 Giving Notice of Business**

1. Council must not transact business at a meeting of the Council:
  - a) unless a Councillor has given notice of the business in writing within such time before the meeting as is fixed by this Code of Meeting Practice or as is fixed by Resolution of the Council, and
  - b) unless notice of the business has been sent to the Councillors in accordance with Section 367 of the Act.
2. Subclause 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 Regulation Clause 236 (1) (*Note: Section 3.2 of this Code*); or
  - c) is a matter or topic put to the meeting by the Chairperson in accordance with Regulation Clause 243 (*Note: Section 8.1 of this Code*); or
  - d) is a motion for the adoption of recommendations of a Committee of the Council.
3. Despite subclause 1, business may be transacted at a meeting of a 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; and
  - b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.
4. Such a motion can be moved without notice.
5. Despite Regulation Clause 250, which deals with the limitation as to speeches (See Section 7.10 of this Code), only the mover of a motion, referred to in subclause 3 can speak to the motion before it is put.  
(LG (Gen) Reg 2005 CI 241)
6. Subject to the provision of this Clause, notice of business from a Councillor is to be lodged with the General Manager seven (7) business days prior to the scheduled meeting date.  
(Min 324 27/10/15)

## **6.2 Agenda and Business paper for Extraordinary meeting**

1. The General Manager must ensure that the business of an extraordinary meeting of a Council deals only with the matters stated in the notice of the meeting.
2. Despite subclause 1, business may be transacted at an extraordinary meeting of a 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; and
  - b) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.

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

3. Despite Regulation Clause 250 (Note: Clause 7.10 of this Code) only the mover of a motion referred to in subclause 2 can speak to the motion before it is put.  
(LG (Gen) Reg 2005 CI 241)

## **6.3 Order of Business**

- a) At a meeting of the Council or Committee (other than an extra ordinary meeting) the general order of business is (except as provided by this Regulation) as fixed by the Council's Code of Meeting Practice or as fixed by resolution of Council.
- b) The order of business fixed below may be altered if a motion to that effect is carried. Such a motion can be moved without notice.

- c) Despite clause 250, only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.

(LG (Gen) Reg 2005 CI 239)

- d) For **all ordinary meetings** of Council, except the meeting held in September each year for the election of the Deputy Mayor by the Councillors, the general order of business should be :-

#### **Order of Business**

1. Prayer
2. Acknowledgement of the Worimi People of Port Stephens
3. Apologies
4. Confirmation of Minutes
5. Mayoral Minutes
6. Motions to Close Meeting to the Public
7. Disclosure of Pecuniary Interest or Non-Pecuniary Interest
8. Council Reports
9. General Manager's Report
10. Notices of Motion
11. Rescission Motions
12. Motions to Close Meeting to the Public
13. Confidential Items
14. Motions to Open Meeting to the Public

The Order of Business may be amended where particular items are not relevant at any meeting.

- e) The order of business for **committees** of the Council should be:

#### **Order of Business**

1. Apologies
2. Disclosure of Pecuniary Interest or Non-Pecuniary Interest
3. Reports.

- f) At the **ordinary meeting held in September each year**, (or at any other time as determined by Council, subject to the date of the Deputy Mayor election) and at the **first meeting following any quadrennial election of Council**, the following business should precede the general order of business as set out in clause 6.3 (d).

#### **Order of Business**

1. Election of Deputy Mayor
2. Fixing of dates and times for meetings of Council and Committees of the Council



3. Determination of Committees of the Council, Management Committees
4. Appointment of Council Delegates to Community Consultative Committees, Statutory Committees and external (non- Council) Organisations.

#### **6.4 Report of a Departmental Representative to be Tabled at a Council Meeting**

When a report of a Department Representative has been presented to a meeting of the Council in accordance with Section 433 of the Act, the Council must ensure that the report:-

- i) is laid on the table at that meeting; and
- ii) is subsequently available for the information of Councillors and members of the public at all reasonable times

(LG (Gen) Reg 2005 CI 244)

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## **7. PARTICIPATION AT MEETINGS**

Councillors cannot participate in a meeting of Council unless personally present at the meeting.

((LG (Gen) Reg 2005 CI 235)

### **7.1 Notice of Motion**

1. Notices of motion, for ordinary meetings of the Council, are to be in writing and are to be delivered, emailed, faxed or posted to the General Manager in order to reach him or her by no later than seven (7) business days prior to the scheduled meeting date.
2. Notices of motion, for an extraordinary meeting of the Council, are to be in writing and are to be delivered, emailed, faxed or posted to the General Manager in order to reach him or her by no later than seven (7) business days prior to the day of the meeting.

(Min 324 27/10/15)

3. A notice of motion must be signed by at least one Councillor.

### **7.2 Notice of Motion – Absence of Mover**

- 1 In the absence of a Councillor who has placed a notice of motion on the agenda for a meeting of a 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.

(LG (Gen) Reg 2005 CI 245)

### **7.3 Motions to be seconded**

1. A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to Regulation clauses 243(2) and 250(5).

(LG (Gen) Reg 2005 CI 246)

*(Note: Regulation Clause 243(2) (See Clause 8.1 of this Code) relates to a Mayoral Minute, which does not require a seconder.)*

*(Note: Regulation Clause 250 (5) (See Clause 7.10 subclause e) relates to a motion that the question now be put without further debate.)*

#### **7.4 Amendments may be moved**

1. At a meeting of the Council or a Committee of the Council, a Councillor may move an amendment to any motion.
2. If an amendment is carried, it becomes the motion.

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

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.

(LG (Gen) Reg 2005 CI 247)

#### **7.6 Foreshadowed Amendments**

1. Notwithstanding Clause 7.5 of this Code a Councillor may, when a motion and an amendment have been moved, foreshadow an intention to move a further amendment before the amendment has been voted upon.
2. If the amendment is rejected, the foreshadowed amendment may be moved and any intention to move a further foreshadowed amendment outlined and so on until the matter is decided.

#### **7.7 Motion of Dissent**

1. A Councillor can, without notice, move to dissent from the ruling of the Chairperson on a point of order. If that happens, the Chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
2. If a motion of dissent is passed, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business to the agenda and proceed with it in due course.
3. Despite Regulation clause 250 (which relates to the limitation of speeches,) 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 right of general reply.

(LG (Gen) Reg 2005 CI 248)

## **7.8 Motions may be put without Debate**

1. The Chairperson may put a motion to the vote without debate, subject to the motion being moved and seconded and no dissent being voiced by the Councillors present.

(Council Policy)

## **7.9 Questions may be put to Councillors and Council Employees**

- a) A Councillor
  - i) may, through the Chairperson, put a question to another Councillor; and
  - ii) may, through the General Manger, put a question to a Council employee.
- b) However, a Councillor or Council employee to whom the question is put is entitled to be given reasonable notice of a question and in particular, sufficient notice to enable reference to be made to other persons and/or documents.
- c) The Councillor must put every such question directly, succinctly and without argument.
- d) The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee.

(LG (Gen) Reg 2005 CI 249)

## **7.10 Limitation as to Number of Speeches**

- a) A Councillor who, during a debate at a meeting of Council, moves an original motion has the right of general reply to all observations that are made by other 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.

*(Note: The mover of an original motion has the right to speak to the motion.)*

- b) A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each subsequent amendment to it.
- c) A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than five (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 five minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

- d) Despite Clauses a) b) and c) above, a Councillor may move that a motion or an amendment be now put:-
  - i) 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
  - ii) if at least two Councillors have spoken in favour of a motion or an amendment and at least two Councillors have spoken against the motion, or amendment.  
(Min 056 13/2/96)
  - iii) if after two speakers for the motion no Councillor opposes the motion then the speakers will be limited to two speakers.  
(Min 397 16/12/08)
- e) The Chairperson must immediately put to vote, without debate, a motion moved under subclause (d). A seconder is not required for such a motion.
  - i) If the 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 (a).
  - ii) 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.  
(LG (Gen) Reg 2005 Cl 250)

### **7.11 Voting at Council Meetings**

- a) A Councillor who is present at a meeting of Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- b) A Councillor who has voted against a motion may request the Minute Clerk (on behalf of the General Manager) to ensure that the Councillors dissenting vote is recorded in the Council's minutes.
- c) The decision of the Chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two Councillors rise and demand a division.
- d) When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately. The Minute Clerk (on behalf of the General Manager) must ensure that the names of those who vote for the motion and against are respectively recorded in the minutes.
- e) The Chairperson and General Manager must ensure that a division occurs on all planning and development applications decisions.

(Local Government Act 1993 CI 375A)

- e) Voting at a Council meeting, including voting in an election at such a meeting is to be 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 the Deputy Mayor is to be secret ballot.

*(Note: Part 11 of the Local Government (General) Regulation 2005 provides that 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 394 and clause 3 of Schedule 7). Clause 3 of Schedule 7 also makes it clear that ballot has its normal meaning of secret ballot).*

(LG (Gen) Reg 2005 CI 251)

- f) Council may pass resolutions of Council in a "block" vote, once all items have been debated.

*(Note: Definition of a "block" vote is where the Council may move a number of agenda items at once, if they elect not to debate the items any further.)*

## **7.12 What are the Voting Entitlements of Councillors?**

- a) Each Councillor is entitled to one vote.
- b) However, the person presiding at a meeting of Council has, in the event of an equality of votes, a second or casting vote.

(LGA Section 370)
- c) The Chairman must advise the meeting that he/she is exercising his/her right to use the casting vote.

(Min 512 10/10/95)



## **8.0 WHAT CONSTITUTES A DECISION OF COUNCIL?**

A decision 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 Section 371)

### **8.1 Mayoral Minutes**

- a) If the Mayor is the Chairperson at a meeting of the Council, he or she is, by minute signed by him or her, entitled to put to the meeting without notice any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.
- b) 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.

(LG (Gen) Reg 2005 Cl 243)

### **8.2 Official Minutes – Recording of**

- a) A recommendation made in a minute of the Chairperson (being the Mayor) or in a report made by a Council employee, when adopted by the Council, is a resolution of the Council.
- b) Council must ensure that full and accurate minutes are kept of proceedings of a meeting of the Council.
- c) 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 Section 375)

### **8.3 Matters to be included in Minutes of Council Meeting**

1. 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.

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

(LG (Gen) Reg 2005 CI 254)

### **8.4 Minutes of a Committee Meeting**

1. Each Committee of the 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 was 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 Committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.

(LG (Gen) Reg 2005 CI 266)

### **8.5 Inspection of the minutes of a Council or Committee Meeting**

1. An inspection of the minutes of a meeting of Council or Committee of a Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager (eg Public Officer) to supervise inspections of those minutes.
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: The *Government Information (Public Access) Act 2009* confers a right (restricted in the case of closed parts of meetings) to inspect the minutes of a Council or Committee of a Council.)

(LG (Gen) Reg CI 272)

## **8.6 Minutes in Evidence**

1. Every entry in the minutes of the business transacted at the 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.

(LGA Section 703)

## **8.7 Rescinding or Altering Resolutions**

1. A resolution of Council is effective from the moment it is passed and it is the function and duty of the General Manager to give effect to such resolution.
2. A notice of rescission can, however, delay a resolution if such notice is given in accordance with the following provisions of the Act:
  - a) A resolution passed by a Council may not be altered or rescinded except by a motion to that effect of which notice has been given in accordance with this Code. Rescission motions for development applications must be lodged before 5pm on the day following the meeting in which the resolution was passed otherwise Council will implement the resolution.
  - b) If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.
- *NOTE: in accordance with the Environmental Planning & Assessment Act once consent or refusal has been issued by Council it is final. If the applicant is dissatisfied with the result the appropriate course of action is to appeal to the Land & Environment Court. ie Council cannot re-consider a development application once the consent or refusal has been issued.*
- *If a rescission motion is lodged at the meeting, the consent or refusal will not be issued. Should a rescission motion be lodged after the consent or refusal has been issued Council can take no further action. (Min 512 10/10/95)*
- c) If a motion has been negatived by a Council, a motion having the same effect must not be considered unless notice of it has been given in accordance with this Code.

- d) 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 three Councillors if less than three months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- e) 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 three months. This subclause may not be evaded by substituting a motion differently worded, but in principle the same.
- f) 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.
- g) The provisions of this Clause concerning negated motions do not apply to the motions of adjournment. LGA Section 372)

### **8.8 Certain circumstances do not invalidate Council Decisions**

Proceedings at a meeting of a Council or a Council Committee are not invalidated because of:

- a) a vacancy in a civic office; or
- b) a failure to give notice of the meeting to any Councillor or Committee member; or
- c) any defect in the election or appointment of a Councillor or Committee member; or
- d) a failure of a Councillor or a Committee member to disclose a pecuniary interest at a Council or Committee meeting in accordance with Section 451; or
- e) a failure to comply with the Code of Meeting Practice.

(LGA Section 374)

## **9.0 KEEPING ORDER AT MEETINGS**

### **9.1 Questions of Order**

- a) 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.
- b) A Councillor who claims that another Councillor has committed an act of disorder or is out of order, may call the matter to the Chairperson's attention.
- c) 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.
- d) The Chairperson's ruling must be obeyed unless a motion of dissent is passed.

(LG (Gen) Reg 2005 CI 255)

### **9.2 Acts of Disorder**

- a) A Councillor commits an act of disorder if the Councillor, at a meeting of Council or a Committee of the Council:-
  - i) contravenes the Act or any regulation in force under the Act; or
  - ii) assaults or threatens to assault another councillor or person present at the meeting; or
  - iii) 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
  - iv) insults or makes personal reflections on or imputes improper motives to any other Councillor; or
  - v) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt.

- b) The Chairperson may require a Councillor:-
  - i) To apologise without reservation for an act of disorder referred to in subclause a) i) or ii) or;
  - ii) To withdraw a motion or an amendment referred to in subclause a) iii) and, where appropriate, to apologise without reservation; or
  - iii) to retract and apologise without reservation for an act of disorder referred to in subclause a) iv) or v).

Meaningless apologies will be unacceptable.

(Min 430 22/8/95)

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

(LG (Gen) Reg 2005 CI 256 & Min056 13/2/96)

### **9.3 How Disorder at a Meeting may be Dealt With**

- a) If disorder occurs at a meeting of a Council, the Chairperson may adjourn the meeting for a period of not more than fifteen minutes and leave the chair. The Council, on reassembling, must, on a question put from the Chair, decide without debate whether business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.
- b) A member of the public may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a Council for engaging in or having engaged in disorderly conduct at the meeting.

(LG (Gen) Reg 2005 CI 257)

- c) Disorder at a Council meeting by a Councillor will be dealt with in accordance with Council's Code of Conduct and the *Local Government Act*.

### **9.4 Power to Remove Persons from Meeting after Expulsion Resolution**

- 1. If a Councillor or a member of the public fails to leave the place where a meeting of a 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 presiding to leave the meeting,

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 Councillor or member from that place and, if necessary, restrain the Councillor or member from re-entering that place.

(LG (Gen) Reg 2005 CI 258)

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## **10.0 COUNCIL COMMITTEES**

A Council may resolve itself into a Committee to consider any matter before Council.  
(LGA Section 373)

### **10.1 Committee of the Whole**

1. All the provisions of this Regulation relating to meetings of a Council, so far as they are applicable, extend to and govern the proceedings of the Council when in Committee of the Whole, except the provision limiting the number and duration of speeches.
2. The General Manager (or, in the absence of the General Manager, an employee of the Council designated by the General Manager) is responsible for reporting to the Council proceedings in Committee of the Whole. It is not necessary to report the proceedings in full but any recommendations of the Committee must be reported.
3. Council must ensure that a report of the proceedings (including any recommendations of the Committee) is recorded in 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.

(LG (Gen) Reg 2005 CI 259)

### **10.2 Committees to Keep Minutes**

- a) Each committee of Council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular, a committee must ensure that the following matters are recorded in the committee's minutes:
  - i) details of each motion moved at a meeting and of any amendments moved to it.
  - ii) the names of the mover and seconder of the motion or amendment,
  - iii) whether the motion or amendment is passed or lost.
- b) 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.

(LG (Gen) Reg 2005 CI 266)



### **10.3 Council may Appoint Committees**

- a) Council may, by resolution, establish such Committees as it considers necessary.
- b) A committee is to consist of the Mayor and such other councillors as are elected by the councillors or appointed by the Council.  
(Min 871 25/2/97)
- c) The quorum for a meeting of such a Committee is to be:-
  - i) such number of members as the Council decides; or
  - ii) if the Council has not decided, then the majority of the members of the Committee.  
(LG (Gen) Reg 2005 CI 260)

### **10.4 Functions of Committees**

- a) Council must specify the functions of each of its Committees when the Committee is established but may from time to time amend those functions.  
(LG (Gen) Reg 2005 CI 261 & Min 871 25/2/97)
- b) Council may delegate certain functions to a Committee as provided in Section 355 of the Act.  
(LGA Section 355)

### **10.5 Notice of Committee Meetings to be given**

1. The General Manager must send to each Councillor, at least 3 days (weekends will be counted as days of notice, in the 3 days) before each meeting of a Committee, a notice specifying:
  - a) the time and place at which and the date on which the meeting is to be held; and
  - b) the business proposed to be transacted at the meeting.
2. However, notice of less than 3 days may be given of a Committee meeting called in an emergency.

(LG (Gen) Reg 2005 CI 262)

### **10.6 Non Members Entitled to Attend Committee Meetings**

- a) A Councillor who is not a member of a Committee of Council is entitled to attend and speak at, that meeting. However, the Councillor is not entitled to:

- i) give notice of business for inclusion in the Agenda for the meeting; or
- ii) move or second a motion at the meeting; or
- iii) vote at the meeting.

(LG (Gen) Reg 2005 CI 263)

- b) All standing committees of Council are open to the public unless the items for discussion are confidential (see Clause 4.5)

(Min 871 25/2/97)

### **10.7 Representations by members of the public - closure of part of meeting**

- a) A representation at a council meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close part of the meeting is moved and seconded.

(LG (Gen) Reg 2005 CI 264 & Min 210 19/5/98)

### **10.8 Procedure in Committee Meetings**

- a) Subject to subclause (c) below Committees may regulate its own procedure, provided the adopted procedure is not inconsistent with this Code.
- b) The Committee may decide to give the Chairperson of the Committee a casting vote, as well as an original vote, if the vote is equal.
- c) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands).

(LG (Gen) Reg 2005 CI 265 & Min 871 25/2/97)

### **10.9 Chairperson and Deputy Chairperson of Committees**

- a) The Chairperson of each Committee must be:-
  - i) The Mayor; or
  - ii) if he/she prefers the Council may elect a Chairperson; or
  - iii) if the Council does not elect a Chairperson, the Committee may elect the Chairperson.
- b) A Council or Committee may elect a Deputy Chairperson.
- c) If neither the Chairperson or Deputy Chairperson are present at the Committee meeting, the Committee must elect an Acting Chairperson.

#### **10.10 Absence from Committee Meetings**

- a) A member ceases to be a member of a committee if the member (other than the Mayor);
  - i) has been absent for three consecutive meetings without giving reasons acceptable to the Committee;
  - ii) has been absent from at least half of the Committee meetings held during the preceding year and has not given acceptable reasons.
- b) This does not apply if all 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)*

(LG (Gen) Reg 2005 CI 268)

#### **10.11 Reports of Committees**

- 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.
- 2. The recommendations of a Committee of the Council are, so far as adopted by the Council, resolutions of the Council.
- 3. If a Committee of the Council passes a resolution, or makes a recommendation, during a meeting, or 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.

(LG (Gen) Reg 2005 CI 269)

#### **10.12 Disorder in Committee Meetings**

The same provisions will apply to Committee meetings for the maintenance and order of proceedings, as they apply to Council meetings.

(LG (Gen) Reg 2005 Clause 43)

#### **10.13 Committee may expel certain persons from its meetings**

- 1. If a meeting or part of a meeting of a Committee of a 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 that person from re-entering that place.

(LG (Gen) Reg 2005 Cl 271)

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## **11. DISCLOSURE OF PECUNIARY AND NON- PECUNIARY INTEREST**

### **11.1 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 or another person with whom the person is associated.

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

- a) A person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
    - i) the person ;or
    - ii) another person with whom the person is associated as provided in this section.
  - b) A person is taken to have a pecuniary interest in a matter if:
    - i) the person's spouse or defacto partner or a relative of the person, or a partner or employer of the person, has a pecuniary interest in the matter; or
    - ii) the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.
  - c) However, a person is not taken to have a pecuniary interest in the matter:
    - i) if the person is unaware of the relevant pecuniary interest of the spouse, defacto partner, relative, partner, employer or company or other body ; or
    - ii) 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
    - iii) 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.
- (LGA Section 443)

### **11.3 Disclosure of and Presence at Meetings**

1. A Councillor or a member of a Committee of Council 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.

(LGA Section 451)

#### **11.4 Pecuniary Interest (of Councillors) in Committee**

1. A Councillor who has been appointed by the Council to a position on a Committee of the Council has the same obligations to pecuniary interest as set out in Clause 11.3 of this Code.

(LGA Section 451 and Council Policy)

#### **11.5 Pecuniary Interest Obligations to be Noted on Business Paper**

1. The obligations of Councillors under the *Local Government Act* as to disclosure of pecuniary interests is to be noted on the business paper of each Council and Committee meeting in the following terms:
  - (a) Councillors are under an obligation at law to disclose any pecuniary interest they may have in any matter before the Council and to refrain from being involved in any consideration, discussion or voting in any such matter.
  - (b) Councillors should disclose non-pecuniary interests in accordance with this clause and advise the Council whether or not they intend to participate in any consideration, discussion or voting on the matter the subject of the interest and if they decide to refrain from participating, leave the meeting in accordance with Clause 11.5.6.
2. Councillors must disclose any pecuniary interest in any matter noted in the business paper prior to or at the opening of the meeting.
3. The nature of the pecuniary interest shall be included in the notification.
4. Councillors shall immediately and during the meeting disclose any pecuniary interest in respect of any matter arising during the meeting, which is not referred to in the business paper.
5. All disclosures of interest shall as far as is practicable be given in writing.

6. Any member having a pecuniary interest shall leave the meeting and remain absent while the subject of the pecuniary interest is being considered by Council.
7. The meeting shall not discuss any matter in which a Councillor has a pecuniary interest in while the Councillor is present at the meeting.
8. These disclosures provisions shall apply to all meetings of Council and its Committees.

### **11.6 Pecuniary Interest Council Employees**

1. The Senior Staff of the Council are required to declare pecuniary interests in a similar manner to Councillors as set out in this Code.  
(LGA Section 459 and Council Policy)
2. A designated person (other than Senior Staff see Clause **11.6.1**) must disclose in writing to the General Manager (or if the person is the General Manager, to the Council) the nature of any pecuniary interest the person has in any Council matter with which the person is dealing.
3. However, subclause 2. does not require a designated person who is a member of staff of the Council to disclose such a pecuniary interest if the interest relates to the person's salary as such a member of staff or to his or her other conditions of employment or the like.
4. The General Manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.
5. A disclosure by the General Manager must, as soon as practicable after the disclosure is made, be laid on the table at the meeting of the Council and the Council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

(LGA Section 459)

### **11.7 Pecuniary Interest – Material to be withheld**

#### **11.7.1 Tenders**

A Councillor involved, in his/her private capacity, in tendering to supply goods and/or services to the Council must notify any pecuniary interest to the General Manager prior to submission of the tender.

Any reports or other material dealing with the tender will be withheld from the Councillor to remove any potential conflict of interest, which might otherwise arise from the Councillor having access to confidential commercial information supplied by the other tenderers.

### **11.7.2 Other Matters**

Where a Councillor has declared a pecuniary interest in relation to a matter before Council, or likely to arise before Council, any reports to Council or other materials dealing with that matter before Council will be withheld from the Councillor as from the time the declaration is made known. This is aimed at assisting the Councillor to avoid any conflict of interest, which might otherwise arise from the Councillor having access to information about the matter to which the pecuniary interest applies, at least from the time the declaration of interest is known.

### **11.8 Recording of Declaration**

A declaration of pecuniary interest, including departing and returning to the meeting must be recorded in the minutes.

A disclosure made at a meeting of a Council or Council committee must be recorded in the minutes of the meeting, as well as in the Register of Disclosures kept in the custody of the General Manager.

### **11.9 No Knowledge**

A person does not breach Section 451 or 456 of the *Local Government Act*, 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 they had a pecuniary interest.

(LGA CI 457)

### **11.10 Council Advisers Disclosures**

- a) A person who, at the request or with the consent of the Council or a 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.
- b) Remuneration or fees for the provision of advice is not a pecuniary interest that the adviser has to declare.



### **11.11 Pecuniary Interests that need not be declared**

- a) The following pecuniary interests do not need to be disclosed for the purposes of this Code:
  - i) an interest as an elector
  - ii) an interest as a ratepayer or a person liable to pay charge
  - iii) 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.
  - iv) 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.
  - v) 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).
  - vi) 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.
  - vii) 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:-
    - a) land in which the person or another person with whom the person is associated as provided in Clause 11.2 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
    - b) land adjoining, adjacent to or in proximity to land referred to in subparagraph (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.
  - viii) 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 right in the company.
  - ix) 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.

- x) 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, 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:
  - a) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation,
  - b) security for damage to footpaths or roads,
  - c) 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,
- xi) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor),
- xii) 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,
- xiii) 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,
- xiv) 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,
- xv) 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.
- xvi) 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 Section 448)

### **11.12 Powers of the Minister in relation to meetings**

- a) The Minister may, conditionally or unconditionally, allow a Councillor or member of a Committee, who has a pecuniary interest in a matter before

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

- i) that the number of Councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business; or
  - ii) that it is in the interests of the electors for the area to do so.
- (LGA Section 458)

### **11.13 Non-Pecuniary Interest**

A Councillor who has a non-pecuniary interest in any matter in which the council is concerned is required to disclose the nature of the interest to the meeting of the Council or Committee of the Council as soon as practicable.

### **11.14 Non-Pecuniary Interest Council Employees**

1. The Senior Staff of the Council are required to declare non-pecuniary interests in a similar manner to Councillors as set out in this Code.

(LGA Section 459 and Council Policy)
2. A designated person (other than Senior Staff see Clause 11.7.1) must disclose in writing to the General Manager (or if the person is the General Manager, to the Council) the nature of any non pecuniary interest the person has in any Council matter with which the person is dealing.
3. However, subclause 2. does not require a designated person who is a member of staff of the Council to disclose such a non pecuniary interest if the interest relates to the person's conditions of employment or the like.
4. The General Manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclose relates or refer it to another person to deal with.
5. A disclosure by the General Manager must, as soon as practicable after the disclosure is made, be laid on the table at the meeting of the Council and the Council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

(LGA Section 459)

## **12. COUNCIL SEAL**

- a) The seal of the council is kept by the General Manager.
- b) The seal of the council may be affixed to a document only in the presence of:
  - i) the mayor and the general manager; or
  - ii) at least 1 councillor (other than the Mayor) and the General Manager; or
  - iii) the Mayor and at least 1 other councillor; or
  - iv) at least 2 councillors other than the mayor.
- c) The affixing of the council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in subclause (b) attest by their signatures that the seal was affixed in their presence.
- d) The seal of the 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.
- e) For the purposes of subclause d), a document of the nature of a reference or certificate of service for an employee of the council does not relate to the business of the council.

(Min 871 25/2/97) & (LG (Gen) Reg 2005 CI 400)

### **13. TAPE RECORDING OF COUNCIL/COMMITTEE MEETINGS**

- a) A person who wishes to record (including photographs) the proceedings of a Council or Committee meeting must have the written authority of the Council, Committee or the Mayor and the General Manager conjointly. [Refer to Schedule 1 for current authority.]
- b) A person may be expelled from a meeting of a Council or Committee Meeting for using or having used a tape recorder in contravention of this clause as provided by section 10 (2) (a) or (b) of the Act. (Also see Expulsion Clause 9.4)
- c) 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 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.

Note: Tape recorder includes a video camera and any electronic device capable of recording speech whether magnetic tape is used to record or not.

(LG (Gen) Reg 2005 Cl 273 & Min 871 25/2/97 & Min 022 27/02/11)

Note: Port Stephens Council broadcasts its Ordinary Meetings of Council over the internet to provide a greater level of openness, transparency and access to the decision making process. This does not include the confidential session of the Ordinary Council meeting.

Port Stephens Council accepts no liability for any defamatory remarks that are made during the course of the meeting. The quality of the webcast will depend on the viewers' device memory and internet connection bandwidth.

## **14. TABLING OF DOCUMENTS**

Any document tabled at a Council meeting forms part of the business paper and subsequent minutes. As such the document will be available to members of the public, for inspection, in accordance with the *Government Information (Public Access) Act 2009* (Subject to Clauses 4.5 and 4.7 of the Code - Confidential sessions)

Documents to be tabled at a meeting of the Council must be delivered to the Minute Clerk before the meeting.

When a document has been presented to a meeting of a Council, the General Manager or his/her delegate, will announce the document and ensure it is laid on the table at that meeting.

The minute clerk will record in the minutes the title of the document tabled and record on the document the corresponding minute number. The document is then to be stored in archives.

## **15. MOBILE PHONES**

- a) Mobile phones and pagers should be turned off when entering the Chambers when a meeting is being conducted.
- b) A person will be given a warning from the chairperson and may be expelled from a meeting of the Council or Committee for receiving or using a mobile phone or pager in contravention with this clause.

## **SCHEDULE 1**

Permission granted to:

- a) Prime Television
- b) NBN News
- c) Port Stephens Examiner
- d) SBS Television
- e) ABC Television
- f) Newcastle Herald

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## DECLARATION OF INTEREST FORM

LOCAL GOVERNMENT ACT 1993

Item No. in agenda \_\_\_\_\_

Brief Description of Item \_\_\_\_\_

**Councillor** \_\_\_\_\_ declared a

*Tick the box for the relevant response:*

- ☐ **pecuniary** conflict of interest
- ☐ **significant** non pecuniary conflict of interest
- ☐ **less than significant** non- pecuniary conflict of interest

in this item. The nature of the interest is \_\_\_\_\_

**If a Councillor declares a less than significant conflict of interest and intends to remain in the meeting, the councillor needs to provide an explanation as to why the conflict requires no further action to manage the conflict. (Attach a separate sheet if required.)**

**Councillor** \_\_\_\_\_ left the Chamber and thereby did not take part in the discussion or voting on the Item.

Time Councillor retired from the Chamber \_\_\_\_\_pm.

**Councillor** \_\_\_\_\_ returned to the Chamber and resumed his/her usual place at the meeting.

Time Councillor returned to the Chamber \_\_\_\_\_pm.





## ATTACHMENT 2

# SPECIAL DISCLOSURE OF PECUNIARY INTEREST – SCHEDULE 3A FORM

LOCAL GOVERNMENT (GENERAL)  
REGULATION 2005 – Clause 195A

### Form of Special Disclosure of Pecuniary Interest

1 The particulars of this form are to be written in block letters or typed.

2 If any space is insufficient in this form for all the particulars required to complete it, an appendix is to be attached for that purpose which is properly identified and signed by you.

### Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under sections 451 (4) and (5) of the *Local Government Act 1993*. You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred by the Director-General to the Local Government Pecuniary Interest and Disciplinary Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting in respect of which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

### Special disclosure of pecuniary interests

by [full name of councillor] \_\_\_\_\_  
in the matter of [insert name of environmental planning instrument] \_\_\_\_\_

which is to be considered at a meeting of the [name of council or council committee  
(as the case requires)] \_\_\_\_\_

to be held on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

Pecuniary interest	
Address of land in which councillor or an associated person, company or body has a proprietary interest ( <i>the identified land</i> )	
Relationship of identified land to councillor [Tick or cross one box.]	<input type="checkbox"/> Councillor has interest in the land (e.g. is owner or has other interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> Associated person of councillor has

	interest in the land. <input type="checkbox"/> Associated company or body of councillor has interest in the land.
<b>Matter giving rise to pecuniary interest</b>	
Nature of land that is subject to a change in zone/planning control by proposed LEP ( <i>the <b>subject land</b></i> ) <i>[Tick or cross one box]</i>	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	
Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor <i>[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]</i>	

*[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]*

Councillor's signature \_\_\_\_\_

Date \_\_\_\_\_

**[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]**

<sup>1</sup> Section **443** (1) of the *Local Government Act 1993* provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative<sup>4</sup> or because your business partner or employer has a pecuniary interest. You may also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

<sup>1</sup> Section **442** of the *Local Government Act 1993* provides that 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. 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 that Act (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).

<sup>1</sup> A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in section **443** (1) (b) or (c) of the *Local Government Act 1993* has a proprietary interest—see section **448** (g) (ii) of the *Local Government Act 1993*.

<sup>4</sup> **Relative** is defined by the *Local Government Act 1993* as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

## ATTACHMENT 3

### **MEETING PROCEDURES – SUMMARY SHEET**

**Starting time** – All meeting must commence within 30 minutes of the advertised time

**Quorum** – A quorum at Port Stephens Council is 6.

#### **Declarations of Interest**

**Pecuniary** – Councillors who have a pecuniary interest must declare the interest, not participate in the debate and leave the meeting.

**Non-Pecuniary** – Councillors are required to indicate if they have a non-pecuniary interest, should a Councillor declare a significant non-pecuniary they must not participate in the debate and leave the meeting. If a Councillor declares a less than significant non-pecuniary they must state why no further action should be taken. Councillors may remain in the meeting for a less than significant non-pecuniary.

**Confirm the Minutes** – Councillors are able to raise any matter concerning the Minutes prior to confirmation of the Minutes.

**Public Access** – Each speaker has five (5) minutes to address Council with no more than two (2) for and two (2) against the subject.

#### **Motions and Amendments**

**Moving Recommendations** – If a Committee recommendation is being moved, ie been to a Committee first, then the **motion must be moved and seconded at Council prior to debate proceeding. A councillor may move an alternate motion to the recommendation.**

**Amendments** – A councillor may move an amendment to any motion however only one amendment or motion can be before Council at any one time, if carried it becomes the motion.

**Seconding Amendments** – When moving an amendment, it must be seconded or it lapses.

**Incorporating Amendments** – If a motion has been moved and the mover and seconder agree with something, which is being moved as an amendment by others, they may elect to incorporate it into their motion or amendment as the case may be.

**Voting Order** – When voting on a matter the order is as follows:-

1. Amendment (If any)
2. Foreshadowed Amendments – (If any, and in order that they were moved)
3. Motion

**NB – Where an amendment is carried, there must be another vote on the Amendment becoming the motion.**

**Voting** – an item is passed where a majority vote for the subject. If the voting is tied, the Chairperson has a second (Casting) vote, which is used to break the deadlock.

**Closed Session** – There must be a motion to close a meeting. Prior to voting on the motion, the chairperson may invite the gallery to make representations if they believe the meeting should not be closed. Then Councillors vote on the matter. If adopted the gallery should then be cleared and the matter considered in closed session. Any decision taken in session closed is a resolution. There must be a motion to reopen the Council meeting to the public. If decision occurred in Closed Session, the meeting is advised of the resolution in Open session.

**Procedural Motion** – Is a motion necessary for the conduct of the meeting, it is voted on without debate. e.g. defer an item to the end of the meeting (however, to defer an item to another meeting is not a procedural motion), extend the time for a Councillor to speak etc.

**Points of Order** – when any of the following are occurring or have occurred a councillor can rise on a “Point of Order”, the breach is explained to the Chairperson who rules on the matter.

A Point of Order can be raised where:-

1. There has been any non compliance with procedure, eg motion not seconded etc.
2. A Councillor commits an act of disorder:
  - a) Contravenes the Act, any Regulation in force under the Act, the Code of Conduct or this Code.
  - b) Assaults or threatens to assault another Councillor or person present at the meeting.
  - 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 address or attempts to address the Council or Committee on such a motion, amendment or matter.
  - d) Insults or makes personal reflections on or imputes improper motives to any other Councillor, any staff member or any person present at the meeting.
  - 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.
  - f) Reads at length from any correspondence, report or other document, without the leave of the Council.
  - g) Discusses, moves or attempts to move a motion or amendment with respect to the Confirmation or Minutes, which does not relate to their accuracy as a true record of the proceedings.

## Declarations of Conflict of Interest – Definitions

**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 7 of the Code of Conduct.

**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 financial nature.

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.

The political views of a councillor do not constitute a private interest.

## Making a Declaration of Interest

At the start of the meeting when declaring an interest at the meeting, Councillors:-

1. Identify the Item to which the declaration relates
2. Provide completed Declaration of Interest form to the Chairperson
3. Declare the nature of the interest *eg Live next door to the application*
4. Declare the type of the interest *eg Pecuniary interest or Significant Non Pecuniary or Less than Significant Non Pecuniary Interest*
5. Action to be taken *eg. Pecuniary interest (must leave the room), Non Pecuniary (whether will discuss, vote, or leave the room)*

## Finish of Meetings

1. If disorder occurs, the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair.
2. No discussion allowed on any motion for adjournment of the Council. If negated, no similar motion for adjournment until half an hour again has elapsed.
3. A motion to extend the time of any meeting beyond the time of 9pm is required.



PORT STEPHENS  
COUNCIL

## Code of Meeting Practice

[council@portstephens.nsw.gov.au](mailto:council@portstephens.nsw.gov.au) | 02 4980 0255

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