

## Policy No. 1.2

<b>Name of Policy:</b>	<b>Code of Meeting Practice Policy</b>
<b>Date of Adoption by Council:</b>	<b>September 1999, Revised 2010, Revised Code Adopted October 2010, Amended Code adopted 15 February 2011</b>
<b>Review Timeframe:</b>	<b>Every 4 years or as required</b>
<b>Next Scheduled Review Date:</b>	<b>September 2012</b>
<b>Related Legislation:</b>	<b>Local Government Act 1993 – 360(2) Local Government (General) Regulation 2005 DLG Meetings Practice Note NO 16 August 2009 DLG Circular No. 10-10 dated 21 May 2010</b>
<b>Associated Policies:</b>	<b>Code of Conduct</b>
<b>Responsible Officer:</b>	<b>General Manager</b>

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### 1.0 Introduction

The provisions of Section 360(2) of the Local Government Act 1993 requires NSW Councils to adopt a Code of Meeting Practice and conduct their Council Meetings pursuant to the terms of the Code.

### 1.1 Background and Purpose of Policy

The Code provides details of the procedures and standards for the conduct of Council business.

### 1.2 Objectives of the policy

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

### 1.3 Coverage of the Policy

This Policy relates to all Councillors and Administrators, Council Staff, Members of Council Committees, Delegates of Gloucester Shire Council and members of the public who wish to address Councils/Committees at their meetings.

## **1.4 Strategic Plan Link**

This Policy links to Direction Five – Governance and Partnerships, Objectives 1 – 4 inclusive – of the Community Strategic Plan.

## **2.0 Policy Statement**

This Code of Meeting Practice details the procedures and standards to be met in the conduct of all meetings held by Gloucester Shire Council.

### **2.1 Policy Goal**

That all provisions of the Code of Meeting Practice are observed in the conduct of meetings held by Gloucester Shire Council.

### **2.2 Actions**

As outlined in the attached Code of Meeting Practice.

### **2.3 Definitions**

*Quorum* – majority of Councillors of Council who hold office for the time being and are not suspended from office.

# GLOUCESTER SHIRE COUNCIL

## CODE OF MEETING PRACTICE

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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) of the Local Government Act 1993.

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

Clauses marked with an asterisk (\*) are Council determined. All other provisions of the Code are derived from the Local Government Act 1993, the Local Government (General) Regulation 2005, DLG Meetings Practice Note No. 16 of August 2009 and DLG Circular No. 10-10 dated 21 May 2010.

## **A. COUNCIL MEETINGS**

### **1. FREQUENCY**

Council is required to meet at least 10 times per year, each time in a different month.

**s.365 LGA**

### **2. DATES AND TIMES**

\* At a Council Meeting held in September each year, Council decides on the dates and times for meetings of Council and Committees for the succeeding twelve months.

**\*Council Determination**

With the exception of an extraordinary meeting of Council details of time and place of meetings is advertised in the local press.

**s.9 LGA**

### **3. CALLING OF 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 Council as soon as practical but within fourteen (14) days after receipt of the request.

**s.366 LGA**

- \* (2) The Mayor may call an extraordinary meeting of Council where, in the opinion of the Mayor, such meeting is deemed expedient for the conduct of Council business.

**\* Council Determination**

### **4. NOTICE**

- (1) The General Manager must send to each Councillor, at least 3 days before each meeting, a notice specifying the time and place at which and the date on which the meeting is to be held and the business to be transacted at the meeting.

**s.367LGA, cl 262 Reg**

- (2) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.

**s.367 LGA**

### **5. PARTICIPATION BY COUNCILLORS**

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

**cl 235 Reg**

- \* Once a meeting of Council has commenced a Councillor will not engage with members of the public present during the meeting unless the matter is directed through the chairperson of the meeting.

**\*Council determination**

## **6. CLOSURE TO PUBLIC**

- (1) All meetings of Council and its Committees are open to the public, except where Council or the Committee resolved that the meeting shall be closed to the public for the purpose of discussing and considering any of the following:-
- (a) personnel matters concerning particular individuals;
  - (b) the personal hardship of any resident or ratepayer;
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business;
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of Council, or
    - (iii) reveal a trade secret,
  - (e) information that would, if disclosed, prejudice the maintenance of law
  - (f) matters affecting the security of Council, Councillors, Council staff or Council property
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
  - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.

Council, or a Committee of Council of which all the members are Councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

**s.10A (1), (2), (3) LGA**

Council, or a Committee of Council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

**S.10A (4) LGA, cl 252 Reg**

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.

**cl 252 (1)Reg**

That period is as fixed by Council's Code of Meeting Practice or as fixed by resolution of 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.

**cl 252 (2) Reg**

A meeting is not to remain closed during the discussion of anything referred to above:

- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and

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

A meeting is not to be closed during the receipt and consideration of information or advice referred to in section (g) unless the advice concerns legal matters that:

- (a) are substantial issues relating to a matter in which Council or Committee is involved; and
- (b) are clearly identified in the advice; and
- (c) are fully discussed in that advice

For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:

- (a) a person may misinterpret or misunderstand the discussion; or
- (b) the discussion of the matter may:
  - (i) cause embarrassment to Council or Committee concerned, or to employees of Council, or
  - (ii) cause a loss of confidence in Council or Committee

Part of a meeting of Council, or of a Committee of Council of which all the members are Councillors, may be closed to the public while Council or Committee considers a matter that has not been identified in the agenda for the meeting as a matter that is likely to be considered when the meeting is closed, but only if:

- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in section 10A (2), and.
- (b) the council or committee, after considering any representations made under section 10A (4), resolves that further discussion of the matter;
  - (i) should not be deferred (because of the urgency of the matter), and
  - (ii) should take place in a part of the meeting that is closed to the public.

**s.10C LGA**

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

**CI 259, cl 269 Reg**

- (2) The grounds for closing a meeting to the public will be specified in the resolution closing the meeting and will be recorded in the minutes of the meeting.

The grounds must specify the following:

- (a) the relevant provision of section 10A(2) of the Act
- (b) the matter that is to be discussed during the closed part of the meeting
- (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than the personal hardship of a resident or ratepayer or a trade secret) and would be, on balance, contrary to the public interest.

s.10D LGA

## **7. TAPE RECORDING OF PROCEEDINGS PROHIBITED WITHOUT PERMISSION**

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

A person may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of Council or a Committee of Council for using or having used a tape recorder in contravention of this clause.

If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a Police Officer, or any person authorised for the purpose by Council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering the place.

In this clause **tape recorder** includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not.

cl 273 Reg

## **8. INFORMATION RELATING TO PROCEEDINGS AT CLOSED MEETINGS NOT TO BE DISCLOSED**

- (1) If a meeting or part of a meeting of Council or a Committee of Council is closed to the public, in accordance with section 10A(1), a person must not, without the authority of Council or the Committee, disclose, otherwise than to the Council or to a Councillor of the Council, information with respect to the discussion at, or the business of, the meeting.

- (2) This clause does not apply:
- (a) to the report of a Committee of Council after it has been presented to the Council; or
  - (b) to the disclosure of information referred to in subclause (1) by a Councillor or employee of the Council in the course of the Councillor's or employee's duties.

**s.664(1A) LGA**

- (3) A Councillor must maintain the integrity and security of confidential documents or information in the Councillor's possession, or for which the Councillor is responsible.

**cl 10.9 C of C**

- (4) In addition to a Councillor's general obligations relating to the use of Council information, a Councillor must:
- (i) not disclose any information discussed during a confidential session of a council meeting or committee meeting.

**cl 10.10 C of C**

## **9. ORDER OF BUSINESS AT COUNCIL MEETINGS**

\* For all ordinary meetings of Council, except the meeting held in September each year for the election of Mayor by the Councillors, the general order of business shall be:

1. Declaration of Pecuniary or Conflicts of Interest (Nature of Interest to be Disclosed)
2. Apologies
3. Confirmation of Minutes
4. Matters Arising from Minutes
5. Address from the Public Gallery other than Development Applications
6. Mayoral Minutes
7. Notices of Motion
8. Delegates Reports
9. General Manager's Report
10. Director of Corporate Service's Report
11. Director of Planning and Environment's Report (Development Applications are to be considered at 11:00am)
12. Director of Technical Service's Report
13. Committee Reports
14. Matters for Information
15. Questions With Notice
16. Questions Without Notice
17. Closed Meeting

**\*Council Determination**

\* Council may alter the business to accommodate attendance at the meeting by members of the public. Generally, however, as stated in 5 and 17 above:-

- Members of the public who wish to raise matters from the Public Gallery not relating to Planning Matters or Development Applications listed on the Agenda and who have made arrangements with the General Manager to do so are advised that this section of the Agenda will be considered at approximately 9:40am following the adoption of last month's Council meeting minutes;

- Members of the public who wish to raise matters regarding Planning Matters and Development Applications listed on the Agenda and who have made arrangements with the General Manager to do so are advised that this section of the Agenda is considered at 11:00am.

**\*Council Determination**

At the ordinary meeting held in September each year, and at the first meeting following any quadrennial election of Council, the following business shall precede the above general order of business:

1. Election of Mayor
2. Election of Deputy Mayor
3. Fixation of Dates and Times for Council and Committee Meetings
4. Determination of Council Committees, Management Committees and Advisory Groups
5. Appointment of Council Delegates to Outside Organisation

**cl 239 Reg**

## **10. APOLOGIES FOR NON-ATTENDANCE**

\* Wherever possible a Councillor shall submit an apology for non-attendance at any Council or Committee meeting.

Apologies may be communicated verbally to the Mayor, meeting Chairperson or General Manager.

**\*Council Determination**

## **11. LEAVE OF ABSENCE**

- (1) A Councillor's application for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the Councillor intends to be absent.
- (2) A Councillor who intends to attend a council meeting despite having been granted leave of absence should, if practicable, give the general manager at least 2 days' notice of his or her intention to attend

**cl 235A Reg**

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

**s.234(2) LGA**

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

**s.234(3) LGA**

- (5) Subsection 234(3) does not prevent the council from granting further leave of absence in respect of any further council meeting.

**s.234(4) LGA**

## **B. CHAIRPERSON**

### **1. WHO PRESIDES AT MEETINGS**

- (1) The Mayor, or at the request of or in the absence of the Mayor, the Deputy Mayor presides at meetings of Council.
- (2) If the Mayor or Deputy Mayor is absent, a Councillor elected to chair the meeting by the Councillors present presides at the meeting of Council.

**s.369 LGA**

### **2. COUNCILLOR TO BE ELECTED TO PRESIDE AT CERTAIN MEETINGS**

- (1) If no Chairperson is present at a meeting of Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a Chairperson to preside at the meeting.
- (2) The election must be conducted:
  - (a) by the General Manager or, in his or her absence, an employee of Council designated by the General Manager to conduct the election; or
  - (b) if neither of them is present at the meeting or there is no General Manager or designated employee – by the person who called the meeting or a person acting on his or her behalf.
- (3) If, at an election of a Chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the Chairperson is to be the candidate whose name is chosen by lot.
- (4) For the purposes of subclause (3), the person conducting the election must:
  - (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips; and
  - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
  - (c) The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.

**cl 237 Reg**

### **3. CHAIRPERSON TO HAVE PRECEDENCE**

When the Chairperson rises during a meeting of Council:

- (a) any Councillor then speaking or seeking to speak must immediately resume his or her seat; and
- (b) every Councillor present must be silent to enable the Chairperson to be heard without interruption.

**cl 237 Reg**

#### **4. CHAIRPERSON'S DUTY WITH RESPECT TO MOTIONS**

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

**cl 238 Reg**

### **C. QUORUM**

#### **1. DEFINITION**

Business shall not be transacted at a meeting of Council unless a quorum, that is to say a majority of Councillors, is present.

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

**s.368 LGA**

#### **2. LACK OF QUORUM**

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

**cl 233 Reg**

## **D. BUSINESS PAPERS**

### **1. FOR COUNCIL MEETINGS**

- (1) The General Manager must ensure that the business paper for a meeting of Council states:
  - (a) all matters to be dealt with arising out of the proceedings of former meetings of Council; and
  - (b) if the Mayor is the Chairperson – any business that the Chairperson may decide to put before the meeting without notice; and
  - (c) any business of which due notice has been given.
- (2) The General Manager must not include in the agenda for a meeting of Council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report (without giving details of the item of business) any such exclusion to the next meeting of Council.
- (3) The General Manager must cause the business paper 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 powers of the chairperson under clause 243.

**cl 240 Reg**

### **2. 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 resolution of the Council or, if there is no such resolution, in accordance with the Council's Code of Meeting Practice; 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 clause 236 (1); or
  - (c) is a matter or topic put to the meeting by the Chairperson as a Mayoral Minute in accordance with clause 243; or
  - (d) is a motion for the adoption of recommendations of a Committee of 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

Such a motion can be moved without notice.

- (4) Despite clause 250, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.

- cl 241 Reg**  
 \*(5) Councillors and staff wishing to bring a matter forward under subclause (3) must notify the Chairperson prior to commencement of the meeting.

**\* Council Determination**

### **3. DISCLOSURE OF PECUNIARY AND NON-PECUNIARY INTERESTS AT MEETINGS**

Councillors must disclose any pecuniary interest in any matter noted in the business paper prior to or at the opening of the meeting.

- (1) A disclosure must be made to the General Manager in writing by a Councillor or a member of a Council Committee to the effect that the Councillor or member, or the Councillor's or member's spouse, de facto partner or relative is:
- (a) a member, or in employment, of a specified company or other body, or
  - (b) a partner, or in the employment, of a specified person, is unless and until the notice is withdrawn, sufficient disclosure of the Councillor's or member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.

**s.454 LGA**

- (2) A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the interest to the meeting as soon as practicable.

- (3) 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.
- (4) The Councillor or member must not vote on any question relating to the matter.  
**s.451 LGA**
- (5) A disclosure made at a meeting of Council must be recorded in the Minutes of the Meeting.  
**s.453 LGA**

#### **4. BUSINESS PAPER FOR EXTRAORDINARY MEETING**

- (1) The General Manager must ensure that the business paper for an extraordinary meeting of 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 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 business paper for the meeting has been disposed of.

- (3) Despite clause 250, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.  
**cl 242 Reg**

### **E. MOTIONS/RESOLUTIONS**

#### **1. NOTICE OF MOTION – ABSENCE OF MOVER**

In the absence of a Councillor who has placed a notice of motion on the business paper for a meeting of Council:

- (a) any other Councillor may move the motion at the meeting; or
- (b) the Chairperson may defer the motion until the next meeting of Council at which the motion can be considered  
**cl 245 Reg**

## **2. MOTIONS TO BE SECONDED**

A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to clauses 243 (2) and 250(5) of the Local Government (General) Regulation 2005

Clause 243(2) relates to a Mayoral Minute which does not require a seconder.

Clause 250(5) relates to a motion that the question now be put without further debate.

**cl 256 Reg**

## **3. HOW SUBSEQUENT AMENDMENTS MAY BE MOVED**

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 Council at any one time.

**cl 247 Reg**

## **4. MOTIONS OF DISSENT**

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

(2) If a motion of dissent is carried, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business paper and proceed with it in due course.

(3) Despite clause 250, only the mover of a motion of dissent and the Chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

**cl 248 Reg**

## **5. COUNCIL DECISION**

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

**s.371 LGA**

## **6. RESCINDING OR ALTERING RESOLUTIONS**

A notice of rescission can, however, delay a resolution if such notice is given in accordance with the following provisions of the Act:

(1) A resolution passed by Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with this Code of Meeting Practice.

- (2) If 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.
- (3) If a motion has been negatived by Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with the Council's Code of Meeting Practice.
- (4) 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 negatived by Council, must be signed by 3 Councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negatived, as the case may be.
- (5) If a motion to alter or rescind a resolution has been negatived, or if a motion which has the same effect as a previously negatived motion, is negatived, no similar motion may be brought forward within 3 months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.
- (6) A motion to which this section applies may be moved on the report of a Committee of Council and any such report must be recorded in the minutes.
- (7) The provisions of this section concerning negatived motions do not apply to motions of adjournment.

**s.372 LGA**

## **F. SPEECHES**

### **1. LIMITATION AS TO NUMBER OF SPEECHES**

- (1) A Councillor who, during a debate at a meeting of Council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendments to it, as well as the right to speak on any such amendment.
- (2) A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- (3) A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the Chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or mis-understanding.
- (4) Despite subclauses (1) and (2), a Councillor may move that a motion or an amendment be now put:
  - (a) if the mover of the motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it, or
  - (b) if at least 2 Councillors have spoken in favour of the motion or amendment and at least 2 Councillors have spoken against it.

- (5) The Chairperson must immediately put to the vote, without debate, a motion moved under subclause (4). A seconder is not required for such a motion.
- (6) If a motion that the original motion or an amendment be now put is passed, the Chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause (1).
- (7) If a motion that the original motion or an amendment be now put is rejected, the Chairperson must allow the debate on the original motion or the amendment to be resumed.

**cl 250 Reg**

## **G. VOTING**

### **1. VOTING AT COUNCIL MEETINGS**

- (1) A Councillor who is present at a meeting of a Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.
- (2) If a Councillor who has voted either for or against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's vote is recorded in the Council's minutes.
- (3) The decision of the Chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 Councillors rise and demand a division.
- (4) When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes.
- (5) Voting at a Council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, Council may resolve that the voting in any election by Councillors for Mayor or Deputy Mayor is to be by secret ballot.

Note: Part 11 of this Regulation provides that a council is to resolve whether an election by the councillors for mayor or deputy mayor is to be by preferential ballot, ordinary ballot or open voting (clause 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.

**cl 251 Reg**

## **H. MINUTES**

### **1. MINUTES OF MEETINGS**

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

- (2) The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting.  
**s.375 LGA**
- (3) 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.
- cl 254 Reg**

## **2. MAYORAL MINUTES**

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

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

- (1) Council and a Committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- (2) This section does not apply if the correspondence or reports:
- (a) relate to a matter that was received or discussed; or
  - (b) were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.
- (3) This section does not apply if Council or the Committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in section 10A(2), are to be treated as confidential.
- s.11 LGA**
- (4) An inspection of the minutes of a meeting of Council or a Committee of Council is to be carried out under the supervision of the General Manager or an employee of the

Council designated by the General Manager to supervise inspections of those minutes.

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

Note. Section 12 of the Act confers a right (restricted in the case of closed parts of meetings) to inspect the minutes of a council or committee of council.

cl 272 Reg

## **I. ORDER AT MEETINGS**

### **1. QUESTIONS OF ORDER**

- (1) The Chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the Chairperson, it is necessary to do so.
- (2) A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson to the matter.
- (3) The Chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of Council.
- (4) The Chairperson's ruling must be obeyed unless a motion dis-senting from the ruling is passed.

cl 255 Reg

### **2. ACTS OF DISORDER**

- (1) A Councillor commits an act of disorder if the Councillor, at a meeting of Council or a Committee of Council:
  - (a) contravenes the Act or any regulation in force under the Act; or
  - (b) assaults or threatens to assault another Councillor or person present at the meeting; or
  - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of Council or Committee, or addresses or attempts to address Council or Committee on such a motion, amendment or matter; or
  - (d) insults or makes personal reflections on or imputes improper motives to any other Councillor; or
  - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring Council or Committee into contempt.

- (2) The Chairperson may require a Councillor:
- (a) to apologise for an act of disorder referred to in subclause (1)(a) or (b); or
  - (b) to withdraw a motion or an amendment referred to in sub-clause (1)(c) and, where appropriate, to apologise without reservation; or
  - (c) to retract and apologise for an act of disorder referred to in subclause (1)(d) or (e).
- (3) 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 or disorder concerned.

cl 256 Reg

### **3. HOW DISORDER AT A MEETING MAY BE DEALT WITH**

- (1) If disorder occurs at a meeting of Council, the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the Chair. The Council, on reassembling, must, on a question put from the Chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors.
- (2) A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of Council for engaging in or having engaged in disorderly conduct at the meeting.

cl 257 Reg

(3) However, a person (whether a Councillor or another person) is not entitled to be present at a meeting of the Council or of such a committee if expelled from the meeting:

(a) by 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.

**s.10(2) LGA**

(4) A person may be expelled from a meeting only on the grounds specified in, or in, the circumstances prescribed in the regulations.

**s.10(3) LGA**

#### **4. POWER TO REMOVE PERSONS FROM MEETING AFTER EXPULSION**

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

(a) immediately after Council has passed a resolution expelling the Councillor or member from the meeting; or

(b) where Council has authorised the person presiding at the meeting to exercise the power of expulsion, immediately after being directed by the person presiding to leave the meeting,

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

**cl 258 Reg**

#### **5. COMMITTEE MAY EXPEL CERTAIN PERSONS FROM ITS MEETINGS**

(1) If a meeting or part of a Committee of Council is closed to the public in accordance with section 10(A) 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 Council, a 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.

**cl 271 Reg**

## **J. QUESTIONS**

### **1. QUESTIONS MAY BE PUT TO COUNCILLORS AND COUNCIL EMPLOYEES**

- (1) A Councillor:
  - (a) just prior to the end of a meeting may, through the Chairperson, put a question to another Councillor and through the General Manager put a question to a Council employee;
  - (b) such a question will be recorded in the Council minutes under the heading of *Questions Without Notice* for an appropriate response at the next ordinary meeting of Council; and
  - (c) should the Councillor or Council employee to whom the question is put be able to respond immediately, they should do so and the minutes reflect that response.
- (2) If the subject matter of a question is genuinely urgent and the question is not on the agenda in terms of J (1) (b), the question can be raised if:-
  - (a) a motion is passed to have the matter brought before the meeting; and
  - (b) the matter is ruled by the chairperson to be of great urgency.
- (3) A Councillor may ask a question of another Councillor or the General Manager about a matter that is on the meeting agenda during the debate of that matter.
- (5) The Councillor must put every such question directly, succinctly and without argument.
- (6) The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or the General Manager under this clause.

cl 249 Reg, Council Minute 117/10

## **K. COMMITTEES**

### **1. COMMITTEE OF COUNCIL**

Council may resolve itself into a Committee to consider any matter before Council.

s.373 LGA

### **2. COMMITTEE OF THE WHOLE**

- (1) All the provisions of this Code relating to meetings of Council, so far as they are applicable, extend to and govern the proceedings of Council when in Committee of the Whole, except the provision limiting the number and duration of speeches.

- (2) The General Manager is responsible for reporting to Council proceedings in Committee of the Whole. It is not necessary to report the proceedings in full but any recommendations of the Committee must be reported.
- (3) Council must ensure that a report of the proceedings (including any recommendations of the Committee) is recorded in Council's minutes. However, Council is not taken to have adopted the report until a motion for adoption has been made and passed.

cl 259 Reg

### **3. COUNCIL MAY APPOINT COMMITTEES**

- (1) Council may by resolution establish such Committees as it considers necessary.
- (2) Such a Committee is to consist of the Mayor and such other Councillors or citizens as the Council decides.
- (3) The quorum for a meeting of such a Committee is to be:
  - (a) such number of members as the Council decides; or
  - (b) if the Council has not decided a number – a majority of the members of the Committee.

cl 260 Reg

### **4. FUNCTIONS OF COMMITTEES**

Council must specify the functions of each of its Committees when the Committee is appointed or elected, but may from time to time amend those functions.

cl 261 Reg

### **5. NOTICE OF COMMITTEE MEETINGS TO BE GIVEN**

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

cl 262 Reg

## **6. NON-MEMBERS ENTITLED TO ATTEND COMMITTEE MEETINGS**

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

cl 263 Reg

## **7. PROCEDURE IN COMMITTEES**

- (1) Subject to subclause (3), each Committee of Council may regulate its own procedure.
- (2) Without limiting subclause (1), a Committee of Council may decide that, whenever the voting on a motion put to a meeting of the Committee is equal, the Chairperson of the Committee is to have a casting vote as well as an original vote.
- (3) Voting at a Committee meeting is to be by open means (such as on the voices or by show of hands).

cl 265 Reg

## **8. CHAIRPERSON AND DEPUTY CHAIRPERSON OF COMMITTEES**

- (1) The Chairperson of each Committee of Council, must be:
  - (a) the Mayor; or
  - (b) if the Mayor does not wish to be the Chairperson of a Committee – a member of the Committee elected by Council; or
  - (c) if Council does not elect such a member – a member of the Committee elected by the Committee.
- (2) Council may elect a member of a Committee of Council as Deputy Chairperson of the Committee. If Council does not elect a Deputy Chairperson of such a Committee, the Committee may elect a Deputy Chairperson.

- (3) If neither the Chairperson nor the Deputy Chairperson of a Committee of Council is able or willing to preside at a meeting of the Committee, the Committee must elect a member of the Committee to be acting Chairperson of the Committee.
- (4) The Chairperson is to preside at a meeting of a Committee of Council. If the Chairperson is unable or unwilling to preside, the Deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the Deputy Chairperson is able or willing to preside, the Acting Chairperson is to preside at the meeting.
- (5) The Mayor is, by virtue of holding that office, a member of each Committee of Council.

cl 267 Reg

## **9. ABSENCE FROM COMMITTEE MEETINGS**

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

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

cl 268 Reg

## **10. COMMITTEES TO KEEP MINUTES**

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

- (c) whether the motion or amendment is passed or lost.
- (2) As soon as the minutes of an earlier meeting of a Committee of the Council have been confirmed at a later meeting of the Committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.

cL 266 Reg

## **11. REPORTS OF COMMITTEES**

- (1) If in a report of a Committee of Council distinct recommendations are made, the decision of Council may be made separately on each recommendation.
- (2) The recommendations of a Committee of Council are, so far as adopted by Council, resolutions of Council.
- (3) If a Committee of Council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must:
  - (a) make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and
  - (b) report the resolution or recommendation to the next meeting of Council.

cL 269 Reg

## **12. DISORDER IN COMMITTEE MEETINGS**

The provisions of the Act and the Regulation relating to the maintenance of order in Council meetings apply to meetings of Committees of Council in the same way as they apply to meetings of Council.

cl 270 Reg

## **L. PUBLIC ACCESS**

### **1. ADDRESSING COUNCIL**

- \* Any person may utilise the Public Access Session of an Ordinary Council Meeting and may address Council on any matter which has been advised to the General Manager either verbally or in writing by 10:00am the Tuesday prior to the Council Meeting, and where a person addressing Council wishes to present a paper, that paper must be provided to the General Manager by 10.00am the Monday prior to the Council Meeting.

**\*Council Determination**

## **2. ADDRESSING COMMITTEES**

- \* Any person may address any Committee of Council provided prior notice to the General Manager or Committee Chairperson is given.

**\*Council Determination**

## **3. TIME LIMIT ON ADDRESS**

- \* Speakers at public access shall be limited to a 5 minute address unless Council otherwise extends such time.

**\*Council Determination**

## **M. MISCELLANEOUS**

### **1. COUNCILLOR WORKSHOPS AND INFORMATION SESSIONS**

- \* Workshops and information sessions may be called to provide briefings, information or training. No decisions may be made at these workshops and information sessions.

**Council Determination**

### **2. COUNCIL SEAL**

- (1) The seal of Council must be kept by the Mayor or the General Manager, as the Council determines.
- (2) The seal of Council may be fixed to a document only in the presence of:
  - (a) the Mayor and the General Manager, or
  - (b) at least one Councillor (other than the Mayor) and the General Manager, or
  - (c) the Mayor and at least one other Councillor, or
  - (d) at least 2 Councillors other than the Mayor.
- (3) The affixing of a 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 (2)) attest by their signatures that the seal was affixed in their presence.
- (4) 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.
- (5) For the purposes of subclause (4), a document in the nature of a reference or certificate of service for an employee of the Council does not relate to the business of the Council

**cl 400 Reg**