

Shire of  
Gunnedah  
Land of Opportunity

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**GUNNEDAH SHIRE COUNCIL**

CODE  
OF  
MEETING  
PRACTICE

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## **PART 1 – PRELIMINARY**

### **1. CITATION**

This document is prepared and adopted in accordance with the Local Government Act 1993 and Local Government (Meetings) Regulation 1999 and may be cited as the “Gunnedah Shire Council Code of Meeting Practice”.

### **2. COMMENCEMENT**

This Code of Meeting Practice came into effect from Wednesday 21 July 2004.

### **3. DEFINITIONS (Clause 231 Regulation)**

This Code:

Amendment, an amendment is a change to the motion before the Council, and takes place while that motion is being debated. An amendment to a motion must be put forward in a motion itself.

#### **Chairperson:**

- In relation to a meeting of the Council - means the person presiding at the meeting as provided by Clause 25 of this Code, and
- In relation to a meeting of a Committee of the Council - means the person presiding at the meeting as provided by Clause 80 of this Code.

**Committee**, in relation to the Council, means a Committee established under Clause 60 of this Code or the Council when it has resolved itself into a Committee of the Whole.

**Councillor**, is a person elected or appointed to civic office as a member of the governing body (of Gunnedah Shire Council) and includes the Mayor.

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

**Quorum**, is the minimum number of Councillors or members of a Committee required to enable a meeting to be legally convened. Only persons qualified to vote on the matters can constitute the quorum. (Refer Clause 24 of this Code.)

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

**Relative**, in relation to a person, means any of the following:

- The parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person’s spouse.
- The spouse or the de facto partner of the person or of a person referred to in the paragraph above.

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

**The Act**, means the Local Government Act 1993.

**The Code**, means the Gunnedah Shire Council Code of Meeting Practice.

**The Regulation**, means the Local Government (Meetings) Regulation 1999. Except as otherwise provided, expressions used in this Code which are defined in the dictionary at the end of the Act have the meanings set out in the dictionary.

**4. THE CODE AND ITS RELATIONSHIP TO THE ACT AND REGULATION**

- 4.1 This Code is made pursuant to Section 360(2) of the Local Government Act 1993, and is in accordance with the Local Government (General) Regulation 1999.
- 4.2 The Code incorporates the relevant provisions of the Regulation and the Act.
- 4.3 The object of this Code is to provide for the convening and conduct of meetings of Gunnedah Shire Council and of Committees of Council of which all the members are Councillors.
- 4.4 Where this Code does not contain a provision dealing with any particular situation, relating to the convening and conduct of meetings, then those provisions of the rules governing the conduct of sessions of the Legislative Assembly of the Parliament of New South Wales shall apply. *The meeting shall abide by the ruling of the Chair.*
- 4.5 This Code may be amended in accordance with the provisions of Sections 361-363 of the Act.

***[Note: The Code does not have to be placed on public display if changes are due to changes in legislation or are insignificant.]***

- 4.6 In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.
- 4.7 Notes in the text of this Code are explanatory and do not form part of this Code. They are provided to assist understanding.
- 4.8 The Code of Meeting Practice applies to all meetings of Council and to all Committees of Council, without exception.

## **PART 2 – CONVENING OF AND ATTENDANCE AT COUNCIL MEETING**

### **5. HOW OFTEN DOES THE COUNCIL MEET? (s365 Act)**

- 5.1 The Council is required to meet at least 10 times each year, each time in a different month.
- 5.2 The Ordinary Meeting of Council shall be held on the third Wednesday of each month commencing the third Wednesday of each month commencing at the advertised time, or otherwise as amended by Council Resolution.

### **6. WHERE ARE COUNCIL MEETINGS HELD**

Council meetings will be held in the Council Chambers, 63 Elgin Street, Gunnedah unless otherwise advised on the meeting notice or in extraordinary circumstances. Council reserves the right to hold meetings in different locations from time to time. Every endeavour will be made to ensure the venue is acceptable for people with disabilities, is adequate in size, has adequate facilities and has suitable acoustics.

***[Note: If notice of a meeting has been given, it must be held or at least opened. If a quorum is not present, then it is adjourned. The meeting cannot be abandoned before the starting time. Notice of an adjourned meeting to a new date must be given. This meeting utilises previous business paper and must be held separate from another meeting.]***

### **7. CONVENING A MEETING**

A meeting cannot be held unless due notice in writing has been given to all members and a quorum is present.

### **8. NOTICE OF MEETINGS (Clause 232 Regulation and Section 9(1) LGA Act)**

1. This clause prescribes the manner in which the requirements outlined in section 9(1) of the Act are to be complied with.
2. A notice of meeting of a Council or of a Committee must be published in a newspaper circulating in the area before the meeting takes place.
3. The notice must specify the time and place of the meeting.
4. Notice of more than one meeting may be given in the same notice.
5. This clause does not apply to an extraordinary meeting of a Council or Committee.
6. This clause does not apply to Committees consisting of members other than Councillors or Working Groups.

***[Note: If notice of a meeting has been given, it must be held or at least opened. If a quorum is not present then it is adjourned. The meeting cannot be abandoned before the starting time. Notice of an adjourned meeting to a new date must be given. This meeting utilises previous business paper and must be held separate from another meeting.]***

### **9. GIVING NOTICE OF BUSINESS IE “NOTICE OF MOTION” (Clause 241 Regulation)**

- 9.1 A Council must not transact business at a meeting of the Council:
  - Unless a Councillor has been given notice of the business in writing at least three working days immediately preceding the meeting, and
  - Unless notice of the business of any Ordinary meeting has been sent to the Councillor at least three days before the meeting as prescribed in Section 367 LG Act 1993.
- 9.2 Subclause (9.1) 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 meetings as provided by Clause 34 of this Code, or
- c) Is a matter or topic put to the meeting by the Chairperson in accordance with Clause 34 of this Code concerning behaviour, or
- d) Is a motion for the adoption of recommendations of a Committee of the Council.

9.3 Despite Subclause (9.1), 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/or
- 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.

9.4 Despite Clause 42 of this Code, only the mover of a motion referred to in Subclause (9.3) can speak to the motion before it is put.

9.5 The General Manager must sequentially number every notice of motion received and record such in the minutes.

## **10. EXTRAORDINARY MEETINGS**

10.1 The General Manager or Mayor may call an Extraordinary Meeting of Council. The notice of the meeting shall state the objective and reasons for calling the meeting.

Calling for Extraordinary Meetings Upon Request by Councillors (s366 Act)

10.2 If the Mayor receives a request in writing signed by at least two 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. The request shall state the objective and reasons for calling the meeting.

## **11. NOTICE OF MEETINGS TO COUNCILLORS (s367 Act) (Clause 262 Regulation)**

### **Three Days' Notice**

11.1 The General Manager of a Council must send to each Councillor, at least three working days before each meeting of the Council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.

### **Emergency Meetings**

11.2 Notice of less than three days may be given of an Extraordinary Meeting called in an emergency.

### **Electronic Form**

11.3 A notice under this clause 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 papers in that form.

## **12. PUBLIC NOTICES OF MEETINGS (s9 Act) and (Clause 232 Regulation)**

### **Notice of Time and Place**

12.1 a) A Council must give notice to the public of the times and places of its meetings and meetings of those of its Committees of which all the members are Councillors.



- b) A notice of a meeting of a Council or of a Committee must be published in a newspaper circulating in the area before the meeting takes place.
- c) The notice must specify the time and place of the meeting.
- d) Notice of more than one meeting may be given in the same notice.
- e) This clause does not apply to an extraordinary meeting of a Council or Committee.

**Copies of Agenda and Business Papers (s9(2) Act)**

12.2 A Council and each such Committee must have available for the public at its offices, and at each meeting copies (for inspection or taking away by any person) of the Agenda and the associated business papers for the meeting.

**Agendas for Closed Meetings (s92(a) Act)**

12.3 In the case of a meeting whose Agenda includes the receipt of information or discussion of other matters that, in the opinion of the General Manager, is likely to take place when the meeting is closed to the public.

- a) The agenda for the meeting must indicate that the relevant item of business is of such a nature (but must not give details of that item); and
- b) The requirements of subsection 10.2 with respect to the availability of business papers do not apply to the business papers for that item of business.

**Time of Availability (s9(3) Act)**

12.4 The copies are to be available to the public as close as possible to the time they are available to Councillors.

**No Charge (s9(4) Act)**

12.5 The copies of the Council business papers are to be available free of charge.

**Electronic Form of Notice (s9(5) Act)**

12.6 A notice given under this Clause or a copy of an agenda or of a business paper made available under this Clause may, in addition, be given or made available in electronic format.

**13. COUNCIL DECISION INVALID IF PROPER NOTICE WAS NOT GIVEN FOR THAT MEETING?**

A Council decision will still be valid even if proper notice had not been given for the meeting in which the decision was made (s374 of the Act), provided a quorum was present. If the meeting does not follow the Act, the Regulation, the Model Code or Council's Meeting Code there may be a breach of the Act (s672), but this does not mean that the decision is invalid (s374 of the Act).

**14. AGENDA AND BUSINESS PAPERS FOR COUNCIL MEETINGS (Clause 240 Regulation)**

14.1 The General Manager must ensure that the Agenda for a meeting of the Council states:

- a) All matters to be dealt with arising out of the proceedings of former meetings of the Council, and
- b) If the Mayor is the Chairperson - any matter or topic that the Chairperson proposes, at the time when the agenda is prepared, to put to the meeting; and
- c) Subject to Subclause (b), any business of which due notice has been given, except business that is unlawful.

- 14.2 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.
- 14.3 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.
- 14.4 The General Manager must ensure that the details of any item of business that is likely to take place when the meeting is closed to the public to which Section 9 (2A) of the Act applies are included in a business paper for the meeting concerned (but must not give details of that item).
- 14.5 Nothing in this Clause limits the powers of the Chairperson under Clause 50 (behaviour).

**15. DUE NOTICE OF BUSINESS TO BE INCLUDED IN THE MEETING AGENDA**

- 15.1 The definition of 'due notice' as defined by this Code will be business items that are received by the General Manager up to 10:00am six days prior to the day of the meeting.
- 15.2 Councillors may present a notice of motion to the General Manager signed by the Councillor within 'due notice'.

Supporting notes or comments should be included with the notice of motion.

**16. BUSINESS TO BE DISCUSSED AND DEALT WITH AT COUNCIL MEETINGS (Clause 241 Regulation)**

- 16.1 A 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 the Council's code of meeting practice or (if the Council does not have a code of meeting practice or its code of meeting does not fix that time) 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.
- 16.2 Subclause 16.1 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 chairperson to preside at the meeting as provided by clause 236 (16.1) or
- c) is a matter or topic put to the meeting by the chairperson in accordance with clause 243, or
- d) is a motion for the adoption of recommendations of a committee of the council.
- 16.3 Despite subclause 16.1, 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 only happen if:
- a) a motion is passed to have the business transacted at the meeting, and
- b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice.

- 16.4 Despite clause 40 of this code, only the mover of a motion referred to in subclause 16.3 can speak to the motion before it is put.

**17. ORDER OF BUSINESS** (Clause 239 Regulation)

- 17.1 At a meeting of a Council (other than an Extraordinary meeting), the general order of business is (except as provided by the Regulation) as fixed by the Schedule to this Council's Code of Meeting Practice.
- 17.2 The order of business fixed under Subclause (17.1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.
- 17.3 Despite Clause 40 of this Code, only the mover of a motion referred to in Subclause (17.2) may speak to the motion before it is put.

**18. AGENDA FOR EXTRAORDINARY MEETINGS** (Clause 242 Regulation)

- 18.1 The General Manager must ensure that the Agenda for an Extraordinary meeting of a Council deals only with the matters stated in the notice of the meeting.
- 18.2 Despite Subclause (18.1), 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.
- 18.3 Such a motion can be moved without notice but only after the business notified in the Agenda for the meeting has been disposed of.
- 18.4 Despite Clause 39, only the mover of a motion without notice referred to in Subclause (118.24.2) can speak to the motion before it is put.

***[Note: These meetings are usually held to deal with special or urgent business.]***

**19. WHO IS ENTITLED TO ATTEND MEETINGS?** (s10 Act)

**General Public**

- 19.1 Members of the public are entitled to attend a meeting of the Council and those of its Committees of which all the members are Councillors; and
- 19.2 A Council must ensure that all meetings of the Council and of such Committees are open to the public.

**Result of Expulsion (s10(2) LG Act)**

- 19.3 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 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.
- 19.4 A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations.

**20. WHICH PARTS OF A MEETING CAN BE CLOSED TO THE PUBLIC?** (s10A LG Act)

**Meetings may be Closed (s10A LG Act)**

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

- a) The discussion of any matters listed in Subclause (b); or
- b) The receipt or discussion of any of the information so listed.

#### **Grounds for Closure**

20.2 The matters and information are the following:

- a) Personnel matters concerning particular individuals (other than Councillors).
- b) The personal hardship of any resident or ratepayer.
- c) Information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.
- d) Commercial information of a confidential nature that would, if disclosed:
  - i) Prejudice the commercial position of the person who supplied it, or
  - ii) Confer a commercial advantage on a competitor of the Council, or
  - iii) Reveal a trade secret.
- e) Information that would, if disclosed, prejudice the maintenance of law.
- f) Matters affecting the security of the Council, Councillors, Council staff or Council property.
- g) Advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- h) Information concerning the nature and location of a place of an intern of Aboriginal significance on community land.

#### **Closure of Part of Meeting by Resolution to Close**

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

#### **Representations by Members of the Public – Closure of Part of Meeting (s10A(4) LG Act, Clause 252 and Clause 264)**

20.4 A Council, or a Committee of a 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.

20.5 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.

20.6 That period is as fixed by the Council's Code of Meeting Practice or (if the Council does not have a Code of Meeting Practice or its Code of Meeting Practice does not fix that period) 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.

***[Note: Clause 252 and Clause 264 of the General Regulation are duplicated.]***

### **21. FURTHER LIMITATIONS RELATING TO CLOSURE OF PARTS OF MEETINGS TO PUBLIC (s10B LG Act)**

#### **Time Spent Closed to be Minimised**

21.1 A meeting is not to remain closed during the discussion of anything referred to in Clause 16.2:

- a) Except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security; and
  - b) If the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secrete - unless the Council or Committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.
- 21.2 A meeting is not to be closed during the receipt and consideration of information or advice referred to in Clause 20.2(g) of this Code unless the advice concerns legal matters that:
- a) are substantial issues relating to a matter in which the Council or committee is involved;
  - b) are clearly identified in the advice; and
  - c) are fully discussed in that advice.
- 21.3 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred in Clause 20.2 of this Code, the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in Clause 20.2 of this Code).
- 21.4 For the purpose of determining whether the discussion of a matter in open meeting would be contrary to the public interest, it is irrelevant that:
- a) a person may misinterpret or misunderstand the discussion; or
  - b) the discussion of the matter may:
    - i) cause embarrassment to the Council or Committee concerned, or to Councillors or to employees of the Council; or
    - ii) cause a loss of confidence in the Council or Committee.
- 21.5 In deciding whether part of a meeting is to be closed to the public, the Council or Committee concerned must have regard to any relevant guidelines issued by the Director General.

**22. NOTICE OF LIKELIHOOD OF CLOSURE NOT REQUIRED IN URGENT CASES (s10C LG Act)**

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

- 22.1 It becomes apparent during the discussion of a particular matter it is a matter referred to in Clause 20.2; and
- 22.2 The Council or Committee, after considering any representations made under Clause 20.4, resolve that further discussion of the matter:
- a) Should not be deferred (because of the urgency of the matter); and
  - b) Should take place in a part of the meeting that is closed to the public.

**23. GROUNDS FOR CLOSING PART OF MEETING TO BE SPECIFIED (s10D LG Act)**

**Record of Grounds for Closure**

23.1 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the Minutes of the meeting.

**Details to be Specified**

23.2 The grounds must specify the following:

- a) The relevant provision of Section 10A(2) of the LG Act, Clause 20.2 of this Code.
- b) The matter that is to be discussed during the closed part of the meeting,
- c) The reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which the discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

**24. RESOLUTIONS PASSED AT CLOSED MEETINGS TO BE MADE PUBLIC (Clause 253 Regulation)**

If a 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.

**25. WHAT IS THE QUORUM OF A MEETING? (s368 LG Act)**

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 is not suspended from office.

The quorum of a committee of Council is established by Council.

**26. WHAT HAPPENS WHEN A QUORUM IS NOT PRESENT? (Clause 233 Regulation)**

26.1 A meeting of a 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.

26.2 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.

26.3 The General Manager must record in the Council's Minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the Councillors present.

***[Note: Council may debate a motion that has been properly submitted. If a lack of quorum occurred and the meeting was adjourned, the motion could be debated when the meeting is reconvened.]***

**27. MINISTER TO CONVENE MEETINGS IN CERTAIN CASES (Clause 234 Regulation)**

27.1 Whenever an area is constituted or reconstituted, the Minister is required:

- a) To convene the first meeting of the Council of the area;
- b) To nominate the business to be transacted at the meeting; and
- c) To give the Councillors notice of the meeting.

27.2 If there is no quorum at that meeting, the Minister may convene meetings in the same manner until a quorum is present.

27.3 The Council must transact the business nominated by the Minister for a meeting convened under this Clause.

**28. PRESENCE AT COUNCIL MEETINGS (Clause 235 Regulation)**

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

**29. DEPARTURE FROM COUNCIL MEETINGS**

Councillors are required, on proposing to retire from a Council Meeting for the remainder of that meeting, to give prior notice of intended departure to the Chairperson.

**30. LEAVE OF ABSENCE (Clause 235A Regulation) (s234(2) LG Act)**

30.1 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.

30.2 A Councillor applying for leave of absence from a meeting of Council does not need to make the application in person and the Council may grant such leave in the absence of that Councillor.

30.3 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 two days notice of his or her intention to attend.

***[Note: Tendering an apology is not the same as leave of absence. An apology is simply a positive acknowledgement of the courtesy of the person who tendered it to let the chairman know. Leave of absence is formal permission granted by way of Council resolution.]***

**31. ATTENDANCE OF GENERAL MANAGER AT MEETINGS (s376 LG Act)**

**Cannot Vote**

31.1 The General Manager is entitled to attend, but not to vote at, a meeting of the Council or a meeting of a Committee of the Council of which all the members are Councillors.

**Can Vote (s376(2))**

31.2 The General Manager is entitled to attend a meeting of any other Committee of the Council and may, if a member of the Committee, exercise a vote.

**Exclusion from Meeting (s376(3) LG Act)**

31.3 However, the General Manager may be excluded from a meeting of the Council or a Committee while the Council or Committee deals with a matter relating to the standard of performance of the General Manager or the terms of the employment of the General Manager.

**32. ATTENDANCE OF COUNCILLORS AT MEETINGS (s234(1)(d) LG Act)**

32.1 A civic office becomes vacant if the Councillor is absent from three consecutive ordinary meetings of the Council (unless the Councillors absent because he or she has been suspended from office under section 482 (LG Act) without:

- a) prior leave of Council, or
- b) leave granted by the Council at any of the meetings concerned.



## **PART 3 – CONDUCT OF COUNCIL MEETINGS**

### **33. WHO PRESIDES AT MEETINGS? (s369 Act)**

#### **Mayor or Deputy Mayor**

33.1 The Mayor, or at the request of or in the absence of the Mayor, the Deputy Mayor presides at meetings of the Council.

#### **Absence**

33.2 If the Mayor and Deputy Mayor are absent, a Councillor elected to chair the meeting by the Councillors present presides at a meeting of the Council.

### **34. COUNCILLOR TO BE ELECTED TO PRESIDE AT CERTAIN MEETINGS (Clause 236 Regulation)**

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

***[Note: Subsection 369(2) of the Act Clause 27.2 of the Code, provides for a Councillor to be elected to chair a meeting of a Council when the Mayor and Deputy Mayor are absent.]***

34.2 The election must be conducted:

- a) By the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election, or
- b) If neither of them is present at the meeting or there is no General Manager or designated employee, by the person who called the meeting or a person acting on his or her behalf.

34.3 If, at an election of a Chairperson, two 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.

34.4 For the purposes of Subclause (34.3), 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.

34.5 The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.

### **35. CHAIRPERSON TO HAVE PRECEDENCE (Clause 237 Regulation)**

When the Chairperson rises during a meeting of a Council:

35.1 Any Councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat, and

35.2 Every Councillor present must be silent to enable the Chairperson to be heard without interruption.

### **36. CHAIRPERSON'S DUTY WITH RESPECT TO MOTIONS (Clause 238 Regulation)**

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

- 36.2 The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- 36.3 Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.

**37. NOTICE OF MOTION - ABSENCE OF MOVER** (Clause 245 Regulation)

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

- a) Any other Councillor may move the motion at the meeting; or
- b) The Chairperson may defer the motion until the next meeting of the Council at which the motion can be considered.

**38. MOTIONS PUT WITHOUT DEBATE**

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

**39. MOTIONS TO BE SECONDED** (Clause 246 Regulation)

A motion or an amendment cannot be debated unless or until it has been seconded. This Clause is subject to Clauses 42.5 and 59.2 of this Code.

**40. MOTIONS MAY BE WITHDRAWN**

Before any motion or amendment is put to the vote, it may be withdrawn by the mover and seconder with the leave of the Chairperson.

**41. HOW SUBSEQUENT AMENDMENTS MAY BE MOVED** (Clause 247 Regulation)

- 41.1 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.
- 41.2 It is permissible to debate the motion and amendment concurrently.
- 41.3 It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.

***[Note: Amendments may be in the form of additional words to a motion and/or the removal of words from the motion. If the amendment is supported, the original motion is automatically changed by the addition and/or removal of words. This becomes the amended motion. If no further amendments are put forward, the amended motion is then put to the meeting. If passed, the amended motion becomes the resolution.***

***Any amendment to a motion must not alter the motion to the extent that it effectively reverses the motion.]***

**42. LIMITATION AS TO NUMBER OF SPEECHES** (Clause 250 Regulation)

- 42.1 A Councillor who, during a debate at a meeting of a Council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- 42.2 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.

- 42.3 A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than five 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.
- 42.4 Despite Subclauses (42.1) and (42.2), 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 two Councillors have spoken in favour of the motion or amendment and at least two Councillors have spoken against it.
- 42.5 The Chairperson must immediately put to the vote, without debate, a motion moved under Subclause (42.4).
- A seconder is not required for such a motion.
- 42.6 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 (42.1).
- 42.7 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.

#### **43. NO DISCUSSION ONCE PASSED**

- 43.1 Once a vote on a motion has been taken, no further discussions relating to the motion will be allowed unless:
- a) A Councillor requests that his or her opposition to the motion be recorded in the Minutes;
  - b) It is requested that it be recorded in the Minutes that the motion was passed unanimously; or
  - c) A subsequent rescission motion is passed.

#### **44. MOTIONS OF DISSENT (Clause 248 Regulation)**

- 44.1 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.
- 44.2 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.
- 44.3 Despite Clause 42 of this Code, 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.

#### **45. PROCEDURAL MOTIONS**

- 45.1 Unless otherwise prohibited, a procedural motion may be moved at any time and must be dealt with immediately by the Chairperson.
- 45.2 The mover of a procedural motion must not have moved, seconded or spoken to the question before the Chair or any amendment to it.

- 45.3 A procedural motion cannot be moved by the Chairperson.
- 45.4 Unless otherwise provided, debate on a procedural motion is not permitted and the mover does not have a right of reply.
- 45.5 Unless otherwise provided, a procedural motion cannot be amended.

#### **Laying the Question on the Table**

- 45.6 A motion "That the matter be deferred to (time, Council, Committee, further report, etc)":
- a) Is a motion which cannot be refused by the Chair.
  - b) Requires a seconder.
  - c) May be debated.
  - d) May be amended in relation to details of when the matter is to be dealt with, where it is to be dealt with and when a report is to be produced etc.
  - e) If carried, the Chairperson must direct the meeting to the next item of business, and
  - f) Cannot be moved by a person who has either moved a motion or an amendment on the matter in question.

#### **Proceeding to the Next Business**

- 45.7 A motion "That the meeting proceed to the next business":
- a) Is a procedural motion which cannot be moved during the election of Chairperson, and
  - b) If carried in respect to an original motion, means that the Chairperson must direct the meeting to the next item of business, and
  - c) If carried in respect of a procedural motion, or an amending motion, debate upon the original motion proceeds.

#### **Adjourning the Debate**

- 45.8 A motion "That the motion and amendments now before the meeting be adjourned until .....":
- a) Is a procedural motion which cannot be moved while any person is speaking or during the election of a Chairperson; and
  - b) Is a motion on which debate is permitted, including whether the adjournment is appropriate or not, but may only be amended in relation to the time, date and place of the proposed adjournment.

### **46. RESCINDING OR ALTERING RESOLUTIONS (s372 LG Act)**

#### **Motion**

- 46.1 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 Part 2 of this Code.

#### **Notice to Rescind**

- 46.2 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.
- 46.3 If a rescission motion is received after the meeting and the resolution has not been put into effect, then the General Manager should ensure the resolution is not put into effect until the rescission motion is decided on by Council.

#### **Motion Negatived**

- 46.4 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 this Code.

### **Signature Requirement**

- 46.5 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion, which has been negated by the Council, must be signed by three Councillors if less than three months has elapsed since the resolution was passed, or the motion was negated, as the case may be.

### **No Similar Motion**

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

### **Report**

- 46.7 A motion to which this clause applies may be moved on the report of a Committee of the Council any such report must be recorded in the Minutes.

### **Motions of Adjournment**

- 46.8 The provisions of this clause concerning negated motions do not apply to motions of adjournment.
- 46.9 Council cannot rescind development consent if the applicant has been notified in writing.

***[Note: It would appear that Council could rescind part of a resolution (without rescinding the whole resolution) provided the part is discreet from the other parts.]***

## **47. WHAT ARE THE VOTING ENTITLEMENTS OF COUNCILLORS CASTING VOTE? (s370 Act)**

### **Councillors**

- 47.1 Each Councillor is entitled to one vote.

### **Person Presiding**

- 47.2 However, the person presiding at a meeting of the Council has, in the event of an equality of votes, a second or casting vote.

***[Note: Should the chairperson fail to exercise a casting vote the motion being voted upon would be lost.]***

## **48. VOTING AT COUNCIL MEETINGS (Clause 251 Regulation)**

- 48.1 A Councillor cannot participate in a meeting of Council unless personally present at the meeting (no voting by proxy).
- 48.2 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.
- 48.3 If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's Minutes.

- 48.4 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.
- 48.5 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.
- 48.6 Voting at a Council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in any election by Councillors for Mayor or Deputy Mayor is to be by secret ballot.

***[Note: A Councillor who is anywhere in the room where the Council meeting is being held, is considered to be present for the purpose of voting.]***

***[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 Subsection 7). Clause 3 of Schedule 7 also makes it clear that ballot has its normal meaning of secret ballot.]***

**49. WHAT CONSTITUTES A DECISION OF THE COUNCIL? (s371 LG Act)**

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

**50. MODE OF ADDRESS AT MEETINGS**

Councillors and Council employees shall at all times:

- 50.1 Address Councillors by their official designation, as Mister/Madam Mayor or Councillor, as the case may be;
- 50.2 Address Council employees by their position title;

and with the exception of the Chairperson, or any Councillor or Council employee prevented by physical disability, may stand when speaking in Council meetings.

**51. QUESTIONS MAY BE PUT TO COUNCILLORS AND COUNCIL EMPLOYEES (Clause 249 Regulation)**

51.1 A Councillor:

- a) May, through the Chairperson, put a question to another Councillor in relation to items on the agenda; and
- b) May, through the General Manager, put a question to a Council employee in relation to items on the agenda; and
- c) May provide questions to the General Manager to be asked at the meeting and included on the agenda, in accordance with the notice provisions in clause 14-15 of this Code.

51.2 However, a Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.

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

51.4 The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this Clause.

5.15 Questions On Notice will be submitted by Councillors seven business days prior to the Council or Committee meeting for inclusion on the business paper agenda or committee meeting notice.

**52. REPORT OF A DEPARTMENTAL REPRESENTATIVE TO BE TABLED AT COUNCIL MEETING**  
(Clause 244 Regulation)

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

- 52.1 Is laid on the table at that meeting; and
- 52.2 Is subsequently available for the information of Councillors and members of the public at all reasonable times.

**53. QUESTIONS OF ORDER** (Clause 255 Regulation)

- 53.1 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.
- 53.2 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.
- 53.3 The Chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.
- 53.4 The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

**54. ACTS OF DISORDER** (Clause 256 Regulation)

- 54.1 A Councillor commits an act of disorder if the Councillor, at a meeting of a Council or a Committee of a Council:
  - a) Contravenes the Act or any regulation in force under the Act;
  - 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 addresses 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;
  - e) Says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt; or
  - f) Reads at length from any correspondence, report or other document, at a meeting without the leave of the Council.
- 54.2 The Chairperson may require a Councillor:
  - a) To apologise without reservation for an act of disorder referred to in Subclause 46.1(a) or 54.1(b), or
  - b) To withdraw a motion or an amendment referred to in Subclause 46.1(c) and, where appropriate, to apologise without reservation, or
  - c) To retract and apologise without reservation for an act of disorder referred to in Subclause 54.1(d) or 54.1(e).
- 54.3 A Councillor may, as provided by Section 10 (2) (a) or (b) of the LG Act, be expelled from a meeting of a Council for having failed to comply with a requirement under Subclause (54.2). 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.

**55. HOW DISORDER AT A MEETING MAY BE DEALT WITH** (Clause 257 Regulation)

- 55.1 If disorder occurs at a meeting of a 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.
- 55.2 A member of the public may, as provided by Section 10 (2) (a) or (b) of the LG Act, be expelled from a meeting of a Council for engaging in or having engaged in disorderly conduct at the meeting.

**56. POWER TO REMOVE PERSONS FROM MEETING AFTER EXPULSION RESOLUTION** (Clause 258 Regulation)

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

- 56.1 Immediately after the Council has passed a resolution expelling the Councillor or member from the meeting; or
- 56.2 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.

**57. MISBEHAVIOUR** (Division 3 Local Government Act 1993 s440(F))

57.1 In this Division:

misbehaviour of a Councillor means any of the following:

- a) a contravention by the Councillor of this Act or the regulations;
- b) a failure by the Councillor to comply with an applicable requirement of a code of conduct as required under section 440(5);
- c) an act of disorder committed by the Councillor at a meeting of the Council or a Committee of the Council;

but does not include a contravention of the disclosure requirement of Part 2.

***[Note: a contravention of the disclosure requirements of Part 2 is dealt with under other provisions of this chapter.]***

57.2 A reference in this Division is misbehaviour or an incident of misbehaviour includes a reference to misbehaviour that consists of an omission or failure to do something.

Formal censure of Councillor for misbehaviour (s440(G) LG Act)

- 57.3 A Council may by resolution at a meeting formally censure a Councillor for misbehaviour.
- 57.4 A formal censure resolution may not be passed except by a motion to that effect of which notice has been duly given in accordance with regulations made under section 360 LG Act and, if applicable, the Council's Code of Meeting Practice.
- 57.5 A Council may pass a formal censure resolution only if it is satisfied that the Councillor has misbehaved on one or more occasions.



57.6 The Council must specify in the formal censure resolution the grounds on which it is satisfied that the Councillor should be censured.

57.7 A motion for a formal censure resolution may, without limitation, be moved on the report of a Committee of the Council and any such report must be recorded in the minutes of the meeting of the Council.

How is the process for suspension of a Councillor for misbehaviour initiated? (s440(H) LG Act)

57.8 The process for the suspension of a Councillor from civic office is initiated by:

- a) a request made by the Council by resolution communicated by the Director-General, in which the Council states its belief that grounds may exist that warrant the Councillors' suspension; or
- b) a request made by the Director-General to the Council for a report from the Council in relation to the Councillor's alleged misbehaviour; or
- c) a report made by the Independent Commission Against Corruption or the Ombudsman, in which the Commission or the Ombudsman states that the Commission or Ombudsman is satisfied that grounds exist that warrant the Councillor's suspension.

57.9 The Council must make a report to the Director-General requested under subsection (1)(b) before the date specific in the Director-General's request or any later date allowed by the Director-General.

57.10 This section authorizes such requests and reports to be made, and a reference in this section to a report made by the Independent Against Corruption or the Ombudsman is a reference to a report made to the Director-General under the authority of this subsection or under any other provisions of this or any other Act.

57.11 Nothing in this section affects any function under any other provisions of this or any other Act that authorizes the making of a report or recommendation concerning suspension of a Councillor from civic office.

What are the grounds on which a Councillor may be suspended? (s440(I) LG Act)

57.12 The grounds on which a Councillor may be suspended from civic office under this Division are that:

- a) the Councillor's behaviour has:
  - i) been disruptive over a period; and
  - ii) involved more than one incident of misbehaviour during that period;and the pattern of behaviour during that period is of such a sufficiently serious nature as to warrant the Councillor's suspension; or
- b) the Councillor's behaviour has involved one incident of misbehaviour that is of such a sufficiently serious nature as to warrant the Councillor's suspension.

57.13 The process for the suspension of a Councillor from civic office cannot be initiated by a request made by the Council unless:

- a) where subsection (57.12(a)) applies – the Councillor has:
  - i) on two or more occasions been formally censured for incidents of misbehaviour that occurred during the period concerned; or
  - ii) on at least one occasion been expelled from a meeting of the Council or a Committee of the Council for an incident of misbehaviour during the period concerned; or

- b) where subsection (57.12)(b) applies – the Councillor has:
    - i) been formally censured for the incident of misbehaviour concerned; or
    - ii) been expelled from a meeting of the Council or a Committee of the Council for the incident of misbehaviour concerned.
- 57.14 Subsection (57.13) does not affect the Director-General's power to initiate the process for the suspension of a Councillor from civic office.
- 57.15 Furthermore, subsection (57.13) does not prevent the Director-General from initiating the process for the suspension of a Councillor from civic office as a result of a request or report referred to in section 440H.

***[Note: The suspended Councillor/Mayor can attend meetings, but only as a member of the public. Therefore cannot take part in the election of Mayor or Deputy Mayor or vote on any matter.]***

## **PART 4 – MINUTES OF COUNCIL MEETINGS**

### **58. MINUTES (s375 LG Act)**

#### **Minutes to be Kept**

58.1 The Council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council.

#### **Confirmation**

58.2 The correctness of the minutes of every preceding meeting, including Extraordinary meetings, not previously confirmed must be dealt with at every Ordinary meeting of the Council, in order that such minutes may be confirmed.

58.3 The correctness of the minutes of a meeting shall only be confirmed on the motion of two Councillors who were in attendance.

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

#### **Signature (s375(2) LG Act)**

58.5 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.

#### **General Manager Must Record the Following (Clause 254 Regulation)**

58.6 In keeping the minutes of any meeting, the General Manager must record:

- a) The names of Councillors whether they are Present, an Apology or Leave of Absence, etc.
- b) The names of Officers in Attendance.
- c) The name of any other person excluding members of the public in attendance at the meeting and the organisation they represent or the capacity of their attendances.
- d) The arrival and departure times of Councillors, during the course of the meeting (including any temporary departures or arrivals).
- e) Every motion and amendment moved, including the mover and seconder of any motion or amendment.
- f) The outcome of every motion, that is, whether it was put to the vote and the result of either Carried, Lost, Withdraw, Lapsed, Amended, etc and identification of those motions voted on by secret ballot.
- g) Procedural motions should be highlighted.
- h) Motions passed unanimously, if notation is requested by the Chairperson.
- i) Where a valid division is called, a table of the names of every Councillor and the way their vote was cast, either for or against.
- j) When requested by a Councillor, a record of their support or opposition for any motion.
- k) Details of failure to achieve or maintain a quorum and any adjournment whether as a result or otherwise.
- l) Details of any public addresses and questions made to the Council.

- m) The time and reason for any adjournment of the meeting or suspension of Standing Orders.
- n) Disclosure of a pecuniary interest of a Councillor or Council employee attending the meeting.
- o) Any other matter which the General Manager thinks should be recorded to clarify the intention of the meeting or the reading of the Minutes.

**58.7 Recording of Voting on Planning Matters (s375A LG Act)**

- a) In this section, planning decision means a decision made in the exercise of a function of a Council under the Environmental Planning and Assessment Act 1979:
  - i) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
  - ii) not including the making of an order under Division 2A of Part 6 of that Act.
- b) The General Manager is required to keep a register containing, for each planning decision made at a meeting of the Council or a Council Committee, the names of the Councillors who supported the decision and the names of any Councillors who opposed (or are taken to have opposed) the decision.
- c) For the purpose of maintaining the register, a division is required to be called whenever a motion for a planning decision is put at a meeting of the Council or a Council Committee.
- d) Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulation.
- e) This section extends to a meeting that is closed to the public.

***[Note: It is therefore important for Councillors to clearly indicate their vote on planning matters and enable the minute taker time to record the Councillors names.]***

**58.8** In addition, the Minutes should:

- a) Bear the date and time and venue where the meeting was commenced, adjourned, resumed and concluded;
- b) Be consecutively page numbered; and
- c) Contain consecutive item numbers which are clearly headed with subject titles (and, where appropriate, sub-titles) and file references.

**58.9** Every minute and the item that it relates to must be indexed through a central indexing system established and maintained by the General Manager.

***[Note: Section 375(1) of the LG Act (Clause 58 of this Code requires a Council to ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council.)***

**59. MAYORAL MINUTES (SIGNED BY CHAIRPERSON)** (Clause 243 Regulation)

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

***[Note: Mayoral Minutes should not be used to introduce, without notice, matters that are routine, not urgent and require research and in depth consideration.***

***Mayoral Minutes, like motions, may be altered by Council in determining the ultimate resolution.]***

## **PART 5 – PECUNIARY INTERESTS**

### **60. WHAT IS A “PECUNIARY INTEREST”? (s442 LG Act)**

#### **Pecuniary Interest**

60.1 For the purposes of this Part, a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided in Clause 52 of this Code.

#### **Remoteness**

60.2 A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in Clause 53 of this Code.

### **61. WHO HAS A PECUNIARY INTEREST? (s443 LG Act)**

#### **Interest in a Matter**

61.1 For the purposes of this Part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:

- a) The person; or
- b) The person's spouse or de factor partner or a relative of the person, or a partner or employer of the person, pr
- c) a company or other body of which the person, or a nominee, partner or employer of the person, is a member.

#### **No Interest in the Matter**

61.2 However, a person is not taken to have a pecuniary interest in a matter as referred to in subsection (61.1):

- a) If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body; or
- b) Just because the person is a member of, or is employed by, a Council or a statutory body or is employed by the Crown; or
- c) Just because the person is a member of, or a delegate of a Council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

### **62. WHO ARE DESIGNATED PERSONS (s441 LG Act)**

For the purposes of this Chapter, designated persons are:

- The general manager.
- Other senior staff of the Council.

- A person (other than a member of the senior staff of the Council) who is a member of staff of the Council or a delegate of the Council and who holds a position identified by the Council as the position of a designated person because it involves the exercise of functions under this or another Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest.
- A person (other than a member of the senior staff of the Council) who is a member of a Committee of the Council identified by the Council as a Committee whose members are designated persons because the functions of the Committee involve the exercise of the Council's functions under this or any other Act (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the Committee and the member's private interest.

**63. WHAT INTERESTS DO NOT HAVE TO BE DISCLOSED? (s448 LG Act)**

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

- a) An interest as an elector.
- b) An interest as a ratepayer or person liable to pay a charge.
- c) An interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public or a section of the public that includes persons who are not subject to this Part.
- d) An interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part.
- e) An interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not).
- f) An interest of a member of a Council Committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee.
- g) An interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible uses of:
  - i) land in which the person or another person with whom the person is associated as provided in s.443 of the LG Act has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or
  - ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i), if the person or the other person with whom the person is associated would by reason of the proprietary interest have a pecuniary interest in the proposal.
- h) An interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.

- i) An interest of a person arising from the proposed making by the Council of an agreement between the Council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership.
- j) An interest of a person arising from the making by the Council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area:
  - i) the performance by the Council at the expense of the relative of any work or service in connection with roads or sanitation;
  - ii) security for damage to footpaths or roads; and
  - iii) any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council or by or under any contract.
- k) An interest relating to the payment of fees to Councillors (including the Mayor and Deputy Mayor).
- l) An interest relating to the payment of expenses and the provision of facilities to Councillors (including the Mayor and Deputy Mayor) in accordance with a policy under s.552 of the LG Act.
- m) An interest relating to an election to the office of Mayor arising from the fact that a fee for the following 12 months has been determined for the office of Mayor.
- n) An interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person.
- o) An interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor or member of a Council Committee.
- p) An interest arising from appointment of a Councillor to a body as representative or delegate of the Council, whether or not a fee or other recompense is payable to the representative or delegate.

63.2 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

***[Section 458 of the LG Act provides that the Minister may in certain circumstances allow a Councillor or a member of a committee of a Council who has a pecuniary interest to take part in the consideration or discussion of a matter or vote on a matter, or to be present during consideration, discussion or voting. If the Minister is of the opinion:***

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

## **64. DISCLOSURE AND PARTICIPATION IN MEETINGS (s451 LG Act)**

### **Disclosure**

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



**Not Take Part**

- 64.2 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.

***[Note: Proceedings will not be invalid just because a Councillor or Committee member does not identify a pecuniary interest at the meeting in accordance with Section 451 of the LG Act.]***

**65. DISCLOSURE BY ADVISER (s456 LG Act)**

**Disclosure of Adviser**

- 65.1 A person who, at the request or with the consent of the Council or a Council Committee, gives advice on any matter at any meeting of the Council or Committee must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given.

**Interest as Adviser**

- 65.2 The person is not required to disclose the person's interest as an adviser.

**66. CIRCUMSTANCES IN WHICH CLAUSES 59 AND 60 ARE NOT BREACHED (s457 LG Act)**

A person does not breach Clauses 64 and 65 of this Code if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

**67. DISCLOSURES TO BE RECORDED (s453 LG Act)**

A disclosure made at a meeting of a Council or Council Committee must be recorded in the Minutes of the meeting.

**68. GENERAL DISCLOSURE (s454 LG Act)**

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

- a) A member, or in the employment, of a specified company or other body; or
- b) 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.

**69. POWERS OF MINISTER IN RELATION TO MEETINGS (s458 LG Act)**

The Minister may, conditionally or unconditionally, allow a Councillor or a member of a Council Committee who has a pecuniary interest in a matter with which the Council is concerned to be present at a meeting of the Council or Committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- a) That the number of Councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business; or

b) That it is in the interests of the electors for the area to do so.

**70. DISCLOSURES OF PECUNIARY INTEREST WHEN DEALING WITH COUNCIL MATTERS** (s459 LG Act)

70.1 A designated person 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.

70.2 However, subsection (65.1) 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 only to the person's salary as such a member of staff or to his or her other conditions of employment or the like.

70.3 The General Manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates to refer it to another person to deal with.

70.4 A disclosure by the General Manager must, as soon as practicable after the disclosure is made, be laid on the table at a 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.

## **PART 6 - COUNCIL COMMITTEES**

### **71. COMMITTEE OF COUNCIL (s373 LG Act)**

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

### **72. COMMITTEE OF THE WHOLE IN PRIVATE (Clause 259 Regulation)**

72.1 All the provisions of the 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.

72.2 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.

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

***[Note: The Committee of the Whole cannot pass a Council resolution. Council needs to formally consider any recommendations made by Committee of the Whole.]***

### **73. COUNCIL MAY ESTABLISH COMMITTEES (Clause 260 Regulation)**

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

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

73.3 The quorum for a meeting of a Committee is to be:

- a) Such number of members as the Council decides; or
- b) If the Council has not decided a number, a majority of the members of the Committee.

### **74. FUNCTIONS OF COMMITTEES (Clause 261 Regulation)**

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.

***[Note: A regulatory function may be exercised by a Committee only if all its members are either Councillors or Council employees (s379 LG Act).***

***Council may delegate power to a Committee under Section 377 LG Act.]***

### **75. NOTICE OF COMMITTEE MEETINGS TO BE GIVEN (Clause 262 Regulation)**

75.1 The General Manager of a Council must send to each Councillor, at least three 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.

75.2 However, notice of less than three days may be given of a Committee meeting called in an emergency.

**76. NON-MEMBERS ENTITLED TO ATTEND COMMITTEE MEETINGS** (Clause 263 Regulation)

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

76.2 However, the Councillor is not entitled:

- a) To give notice of business for inclusion in the Agenda for the meeting; or
- b) To move or second a motion at the meeting; or
- c) To vote at the meeting.

**77. DEPARTURE FROM COMMITTEE MEETINGS**

Councillors are required, on proposing to retire from a Committee meeting for the remainder of that meeting, to give prior notice of intended departure to the Chairperson (or Deputy Chairperson).

**78. PROCEDURE IN COMMITTEES** (Clause 265 Regulation)

78.1 Subject to Subclause (78.3), each Committee of a Council may regulate its own procedure.

78.2 Without limiting Subclause (78.1), a Committee of a Council may decide that, whenever the voting of 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.

78.3 Voting at a Committee meeting is to be by open means (such as on the voices or by show of hands).

78.4 Rescission procedures for Council Committees will be the same for Ordinary Meetings as defined in Clause 46.

78.5 Rescission motions cannot be raised without notice in Committee meetings and brought to Council in a Committee Report.

**79. COMMITTEE TO KEEP MINUTES** (Clause 266 Regulation)

79.1 Each Committee of a Council must ensure that full and accurate minutes of the proceeding 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; and
- c) whether the motion or amendment is passed or lost.

79.2 As soon as the minutes of an earlier committee meeting have been confirmed, the Chairman of the committee must sign the said minutes.

**80. CHAIRPERSON AND DEPUTY CHAIRPERSON OF COMMITTEES** (Clause 267 Regulation)

80.1 The Chairperson of each Committee of the Council must be:

- a) The Mayor; or
- b) If the Mayor does not wish to be the Chairperson of a Committee, a member of the Committee elected by the Council; or
- c) If the Council does not elect such a member, a member of the Committee elected by the Committee.

- 80.2 A Council may elect a member of a Committee of the Council as Deputy Chairperson of the Committee. If the Council does not elect a Deputy Chairperson of such a Committee, the Committee may elect a Deputy Chairperson.
- 80.3 If neither the Chairperson nor the Deputy Chairperson of a Committee of a 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.
- 80.4 The Chairperson is to preside at a meeting of a Committee of a Council. If the Chairperson is unable to 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.

**81. ABSENCE FROM COMMITTEE MEETINGS** (Clause 268 Regulation)

- 81.1 A member ceases to be a member of a Committee if the member (other than the Mayor):
- a) Has been absent from three consecutive meetings of the Committee without having given reasons acceptable to the Committee for the member's absences; or
  - b) Has been absent from at least half of the meetings of the Committee held during the immediately preceding year without having given to the Committee acceptable reasons for the member's absences.
- 81.2 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.]
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**82. REPORTS OF COMMITTEES** (Clause 269 Regulation)

- 82.1 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.
- 82.2 The recommendations of a Committee of the Council are, so far as adopted by the Council, resolutions of the Council.
- 82.3 If a Committee of a Council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must:
- a) Make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended; and
  - b) Report the resolution or recommendation to the next meeting of the Council.

**83. DISORDER IN COMMITTEE MEETINGS** (Clause 270 Regulation)

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

**84. CERTAIN PERSONS MAY BE EXPELLED FROM COUNCIL COMMITTEE MEETINGS** (Clause 271 Regulation)

- 84.1 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 LG 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 LG Act. Clause 16 of this Code.

- 84.2 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.

## **PART 7 – PUBLIC ACCESS TO INFORMATION AND PUBLIC SUBMISSIONS TO COUNCIL**

### **85. PUBLIC ACCESS TO CORRESPONDENCE AND REPORTS (s11 LG Act)**

#### **Reasonable Access**

85.1 A 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.

#### **Exceptions to Access**

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

- a) Relate to a matter that was received or discussed; or
- b) Were laid on the table at, or submitted to, the meeting;

when the meeting was closed to the public.

#### **Clause Does Not Apply**

85.3 This clause does not apply if the Council or Committee resolves at the meeting, when open to the public, that the correspondence or reports, because they relate to a matter specified in Clause 20.2, are to be treated as confidential.

### **86. INSPECTION OF THE MINUTES OF A COUNCIL OR COMMITTEE (Clause 272 Regulation)**

86.1 An inspection of the Minutes of a 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 to supervise inspections of those Minutes.

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

***[Note: Section 12 of the LG Act confers a right (restricted in the case of closed parts of meetings) to inspect the Minutes of a Council or Committee of a Council.]***

### **87. PUBLIC ADDRESSES AND QUESTIONS (COMMUNITY CONSULTATION)**

87.1 In the case of an Ordinary, Extraordinary or Committee meeting, Council will only permit three speakers in support and three speakers in opposition to a recommendation contained in the Business Paper provided that their request to speak is received prior to the Council meeting. Council's Governance Team will contact all registered speakers to determine who will address Council. In relation to a Development Application, the applicant will be reserved a position to speak. The Council may, by resolution, agree to bring forward additional addresses or questions which have been ruled by the Chairperson to be matters of urgency.

87.2 Public addresses or questions to the Council are to be limited to five minutes, unless Council consents to an extension, and at the conclusion of the Public Addresses and Questions time, Council shall resolve to note the receipt of the addresses and questions received.

87.3 If the subject matter of a public address or question is listed on the Council Agenda for discussion later in the meeting, the Council may further resolve to alter the order of business of the meeting and bring forward the matter for consideration at the conclusion of the address or question, in accordance with Clause 12 of this Code.

87.4 In the case of Committee meetings, no visitor shall be entitled to address any Committee meeting without the prior approval of the Chairperson.

- 87.5 Members of the public wishing to make a presentation to a Council or Committee Meeting are required to complete a Request to Address Council/Standing Committee Meeting Application Form by 12:00pm on the day of the meeting.

***[Note: Standing Committee of Council definition being Committee consisting of all Councillors.]***

## **88. PETITIONS OR JOINT LETTERS**

- 88.1 All petitions must be advised on and tabled at the next Ordinary meeting following receipt. If the subject matter of a petition is tabled by a Councillor at an Ordinary meeting relates specifically to an item on the agenda for that meeting, the petition may be considered in conjunction with that item.
- 88.2 A petition presented to the Council must lay on the table until the next Ordinary meeting of the Council and no motion, other than a motion to receive the petition, may be accepted by the Chairperson, unless the Council resolves to deal with it earlier as a matter of urgency.
- a) Every page of a petition shall bear the wording of the whole petition or request.
  - b) Any signature appearing on a page which does not bear the wording of the whole of the petition or request shall not be considered by the Council.
  - c) Every page of a petition shall be a single piece of paper and shall not be pasted, stapled or pinned or otherwise affixed to any piece of paper other than another page of the petition.
  - d) A Councillor presenting a petition to Council shall state from whom it comes, the number of signatories, and its subject matter.
- 88.3 Any person who fraudulently signs a petition which is presented to the Council is guilty of an offence.
- 88.4 Any Councillor presenting a petition will be responsible for ensuring that:
- a) He or she is familiar with the contents and purpose of the petition; and
  - b) The petition is not derogatory or defamatory.

***[Note: Care should be taken to follow the Privacy and Personal Information Protection Act 1998 (PPIPA) with respect to the use and communication of personal information contained in petitions. Personal information should not be communicated unless it is directly related to the reason why the information was collected and the Council has no reason to believe that the person concerned would object.]***



## **PART 8 – MISCELLANEOUS**

### **89. RECORDING A MEETING OF COUNCIL OR COMMITTEE BY THE PRESS OR PUBLIC (Clause 273 Regulation)**

- a) A person may only use a recording device to record the Meeting of a Council or its Committees with permission (cl.273 of the Regulation).
- b) A person may, as provided by Section 10(2)(a) or (b) of the LG Act, be expelled from a meeting of a Council or a Committee of a Council for using or having used a recording device in contravention of this Clause.
- 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.
- d) The Mayor and General Manager reserve the right to prevent the taking of still photographs and audio visual recordings if in the circumstances that would be inappropriate.

### **90. AUDIO OR VIDEO RECORDING OF MEETINGS BY COUNCIL (Clause 273 Regulation)**

- a) Council will record the open Ordinary Meetings of Council to ensure the accuracy of its Minutes or for some other Council function. These recordings will be destroyed immediately upon confirmation of the meeting minutes in accordance with the State Records Act 1998 (LG NSW Disposal Schedule 13.6.2).
- b) Council would need to consider section 8 of the *Privacy and Personal Information Protection Act 1998* (PPIPA) when determining whether to allow recording of the Meetings. This section states that personal information must not be collected unless it is reasonably necessary for a lawful purpose directly related to Council's function. Further, Council would need to have regard to section 18 of PPIPA, which requires:
  - that personal information must not be disclosed unless it is directly related to the reason why the information was collected; and
  - Council has no reason to believe that the person concerned would object; or
  - the person concerned is likely to have been aware or has been made aware (in line with section 10 of PPIPA) that information of that kind is usually disclosed.
- c) Section 10 of PPIPA also requires Council, where reasonable, to make a person aware of certain matters before their information is collected or as soon as practical after collection.
- d) As with any request to access Council documents that may contain personal information, requests for access to recordings should be treated with caution.
- e) Audio recording and Live Broadcast of meetings will be in accordance with the Policy – Audio Recording and Live Broadcast of Council Meetings .

**91. CERTAIN CIRCUMSTANCES DO NOT INVALIDATE COUNCIL'S DECISION** (s374 Act)

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

- a) A vacancy in a civic office;
- b) A failure to give notice of the meeting to any Councillor or Committee member;
- c) Any defect in the election or appointment of a Councillor or Committee member;
- 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 of the LG Act; or
- e) A failure to comply with this Code of Meeting Practice.

**92. COUNCIL SEAL** (Clause 400 Regulation)

92.1 The Seal of a Council must be kept by the Mayor or the General Manager, as the Council determines.

92.2 The Seal of a Council may be affixed to a document only in the presence of:

- a) The Mayor and the General Manager, or
- b) At least one Councillor (other than the Mayor) and the General Manager; or
- c) The Mayor and at least one other Councillor; or
- d) At least two Councillors other than the Mayor.

92.3 The affixing of a Council Seal to a document has no effect unless the persons who were present when the Seal was affixed (being person referred to in Subclause (ii)) attest by their signatures that the Seal was affixed in their presence.

92.4 The Seal of a Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved (by resolution specifically referring to the document) that the Seal be so affixed.

92.5 For the purposes of Subclause (iv), 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.

**93. DISCLOSURE AND MISUSE OF INFORMATION - PRESCRIBED CIRCUMSTANCES** (s664 LG Act and Clause 412 Regulation)

Section 664 (1A) of the LG Act makes it an offence to divulge details of the discussion at, or the business of, a meeting of Council or a Committee which is closed to the public.

93.1 In particular, if part of a Council or a Committee of a Council is closed to the public in accordance with Section 10A(1), a person must not, without the authority of the council or the committee, disclose (otherwise than to the Council or a Councillor of the Council) information with respect to the discussion at, or the business of, the meeting.

93.2 Subsection 92.1 does not apply to:

- a) the report of a Committee of a Council after it has been presented to the Council, or
- b) disclosure made in any of the circumstances referred to in subsection 90(a)-(e), or
- c) disclosure made in circumstances prescribed by the regulations, or
- d) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with Section 12 of this Code.

93.3 Further, a person acting in the administration or execution of the Act must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known, for the purpose of gaining either directly or indirectly a financial advantage for the person, the person's spouse or de facto partner or a relative of the person.

93.4 A person acting in the administration or execution of this Act, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person, influence:

- a) the determination of an application for an approval, or
- b) the giving of an order.

93.5 Workshops

Council can hold workshops as informal gatherings to provide useful background information. Councillors, staff and invited participants are able to attend workshops. Workshops are not to be used for detailed or advanced discussions where agreement is reached or (de facto) decisions are made.

## **MEETING AGENDA**

### **General Order of Business for Council Meetings (Regulation Clause 12, Code Clause 17)**

#### **AGENDA**

1. PRESENT / APOLOGIES
2. PRAYER
3. BEVEAVEMENTS
4. DECLARATION OF INTEREST
5. PRESENTATIONS
6. CONFIRMATION OF MINUTES OF PREVIOUS MEETING
7. NOTICES OF MOTION
8. MAYORAL MINUTE

#### **OFFICER'S REPORT**

9. GENERAL MANAGER'S REPORT
10. EXECUTIVE MANAGER BUSINESS SYSTEMS AND GOVERNANCE
11. DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES REPORT
12. DIRECTOR INFRASTRUCTURE SERVICES REPORT

#### **STANDING COMMITTEE REPORTS**

12. PLANNING, ENVIRONMENT AND DEVELOPMENT COMMITTEE REPORT

#### **OTHER REPORTS (included as required)**

13. DELEGATES REPORT

#### **QUESTIONS ON NOTICE**

#### **CLOSED MEETING**

#### **OFFICER'S REPORT**

14. GENERAL MANAGER'S REPORT TO CLOSED COUNCIL\*
15. EXECUTIVE MANAGER BUSINESS SYSTEMS AND GOVERNANCE REPORT TO CLOSED COUNCIL \*
16. DIRECTOR PLANNING AND ENVIRONMENTAL SERVICES REPORT TO CLOSED COUNCIL \*
17. DIRECTOR INFRASTRUCTURE SERVICES REPORT TO CLOSED COUNCIL \*

**The ordinary, extraordinary and committee open meetings of Council will be audio recorded for minute taking purposes.**

**Please note meetings held in the Council Chambers are recorded for minute taking purposes.**

**\* Local Government Act 1993 – Definition of Closed Meeting Items**

**10A Which parts of a meeting can be closed to the public?**

- (1) A council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises:
- (a) the discussion of any of the matters listed in subclause (2), or
  - (b) the receipt or discussion of any of the information so listed.
- (2) The matters and information are the following:
- (a) personnel matters concerning particular individuals (other than councillors),
  - (b) the personnel hardship of any resident or ratepayer;
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret,
  - (e) information that would, if disclosed, prejudice the maintenance of law,
  - (f) matters affecting the security of the council, councillors, council staff or council property,
  - (g) advice concerning litigation, or advice that would otherwise be privileged from 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;
  - (i) alleged contraventions of any code of conduct requirements applicable under section 440.

## VISION

**TO BE A FOCUSSED COMMUNITY VALUING GUNNEDAH'S IDENTITY AND QUALITY LIFESTYLE.**

## MISSION

**TO PROMOTE, ENHANCE AND SUSTAIN THE QUALITY OF LIFE IN GUNNEDAH SHIRE THROUGH BALANCED ECONOMIC, ENVIRONMENTAL AND SOCIAL MANAGEMENT IN PARTNERSHIP WITH THE PEOPLE.**

## ORGANISATIONAL VALUES

**In partnership with the community:**

- 1. EQUITY**
- 2. INTEGRITY**
- 3. LEADERSHIP**
- 4. OPENNESS & ACCOUNTABILITY**
- 5. CUSTOMER SATISFACTION**
- 6. COMMITMENT TO SAFETY**
- 7. EFFICIENT & EFFECTIVE USE OF RESOURCES**