

	Code of Meeting Practice
	Strategic

CSP FOCUS AREA:

Local Governance and Finance

INTRODUCTION

This Code of Meeting Practice has been prepared in accordance with section 360 of the *Local Government Act 1993* ('*Local Government Act*'), and, subject to giving public notice and exhibition as required by section 361 of the Act, will apply to all meetings of Council and committees of Council of which all the members are councillors. Further the Code of Meeting practice as set out within the text also apply to advisory committees of Council

The Code incorporates the provisions of the *Local Government Act*, the *Local Government (General) Regulation 2005* ('*Local Government Regulation*') and Council's own decisions (Meeting Notices, etc.).

As required by the *Local Government Act* section 10, all meetings of Council, committees of Council and advisory committees of Council will be, as far as possible, open to the public, however, Council reserves the right under sections 10A(2) and 373 in accordance with current legislation to resolve itself into committee and exclude the press and public to consider any matter of a confidential nature as determined from time to time.

In determining this Code of Meeting Practice a distinction has been made between those committees that come under the provisions of clauses 259 and 260 of the *Local Government Regulation* and its consequent implications and other committees called 'advisory committees'.

The committees of Council that come under clause 259 of the *Local Government Regulation* are those committees of which all the members are councillors.

Advisory committees are those committees which have at least one staff member or one community representative as part of its membership. This Code of Meeting Practice also covers advisory committees and details of that application are set out in this Code.

Definitions

1 In this Code:

Act, refers to the *Local Government Act 1993*;

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

Chairperson,

(a) in relation to a meeting of a Council - means the person presiding at the meeting as provided by section 369 of the Act; and

(b) in relation to a meeting of a committee of a Council - means the person presiding at the meeting as provided by clause 267 of the Regulation (also see clause 36 of this Code);

Committee, in relation to a Council, means a committee established under clause 260 of the Regulation or the Council when it has resolved itself into a Committee of the Whole;

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:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;
- (b) the spouse or de facto partner of the person referred to in paragraph (a) above

Code means the Warrumbungle Shire Council Code of Meeting Practice; and

Regulation means the *Local Government (General) Regulation 2005*.

- 2 Except as otherwise provided, expressions used in this Code which are defined in the dictionary at the end of the Act have the meanings set out in the dictionary.

Act and Regulation

3. (1) This Code is made pursuant to section 360(2) of the Act.
- (2) It incorporates relevant provisions of the Regulation and Act.
- (3) In the event of any inconsistency between this Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.

Note to Text

4. Notes in the text of this Code are explanatory notes and do not form part of this Code. They are provided to assist understanding.

1 REQUIREMENT TO MEET (sections 365 and 366 of the Act, and Council Resolution)

- 1.1 The Council is required to meet at least ten (10) times each year, each time in a different month.
- 1.2 The Council shall, by resolution, set the time, date and place of ordinary meetings of the Council.

The Council will meet on the **first** Thursday of each month for the purpose of holding its ordinary meetings.

Council meetings will alternate between Coonabarabran and Coolah.

There is to be no meeting of Council in January

- 1.3 The Council may, by resolution, set the time, date and place of special meetings of the Council.
- 1.4 The Mayor may call extraordinary meetings of the Council.
- 1.5 If the Mayor receives a request in writing signed by at least two (2) councillors, the Mayor must call an extraordinary meeting of the Council to be held as soon as practicable but in any event within fourteen (14) days after receipt of the request.
- 1.6 For the purpose of subsection (5), a working day is a day that is not a Saturday, Sunday or public holiday.
- 1.7 Council committees and advisory committees shall meet from time to time as determined.
- 2 NOTICE OF AND ATTENDANCE AT MEETINGS** (section 367 of the Act, clause 232 of the Regulation, and Council Resolutions)
 - 2.1 Written notice of ordinary meetings as well as committee meetings, except as otherwise provided, of the business proposed to be transacted shall be given to councillors in electronic format not later than the fifth day prior to the regular day for such meeting (Friday prior to the ordinary meeting day being a Thursday).
 - 2.2 Written notice of Extraordinary Meetings and (except as otherwise provided) of the business for consideration shall be posted or given to Members:
 - (a) in ordinary circumstances - **not less than three (3) days** prior to the proposed date of such meeting, and;
 - (b) in circumstances which are urgent in the opinion of the Mayor - not less than 24 hours prior to the time of the commencement of such meeting.
 - 2.3 The written notice of all meetings must also specify the time, date and place at which the meeting will be held.
 - 2.4 A notice under this section and the agenda for, and the business papers relating to, the meeting, may be given to a councillor in electronic form but only if all councillors have facilities to access the notice, agenda and business papers in that form.
 - 2.5 A notice of a meeting of Council or of a committee of Council (of which all the members are councillors) must be published in a newspaper circulating in the area before the meeting takes place. The notice must specify the time and place of the meeting. Notice of more than one meeting may be given in the same notice. This requirement does not apply to an extraordinary meeting of Council or committee.

- 2.6 (i) Everyone is entitled to attend a meeting of the Council and those of its committees of which all the members are councillors;

(ii) a Council must ensure that all meetings of the Council and of such committees are open to the public, and;

(iii) Council Meetings will be audio recorded and posted on the Council's website.

3 PROCEDURE FOR CLOSING MEETINGS TO THE PUBLIC – AND REPRESENTATIONS BY MEMBERS OF THE PUBLIC – closure of part of meeting (section 10A of the Act and clauses 252 and 264 of the Regulation)

- 3.1 Copies of the business paper for Council and committee meetings shall be available at the Council Chambers for inspection by the public from the Monday prior to the meeting being held. Written representations, by members of the public, on whether items proposed to be considered in committee should be closed to the public will be accepted by the General Manager up until the commencement time of the meeting as set out in the Business Paper.
- 3.2 After a motion to close part of the meeting has been moved and seconded the Mayor or chairperson will then ask the General Manager if there are any written representations from the public on the proposed closure. The General Manager will read out any such written representations.
- 3.3 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 would be closed.
- 3.4 A representation at a Council meeting or committee 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.
- 3.5 That period is fixed by this Code of Meeting Practice at five (5) minutes. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.
- 3.6 The Chairperson will then ask if any person wishes to make verbal representations concerning the closure of the meeting. Each person who wishes to comment and has not made written representation will be invited to do so and will be selected at random to speak. The time limit allowed will be two (2) minutes per person on the motion before Council.
- 3.7 The Council or the committee will in light of the representations made then determine what parts of the meeting will be considered in committee, if any.
- 3.8 In urgent cases the Council or committee may close a part of the meeting without prior notice where it becomes apparent during the course of debate that a matter should be considered in a closed meeting, and the matter is decided, by resolution of the Council or committee, to be too urgent to defer. Such resolution to close the meeting will not be

put to the vote until the public have been allowed to make verbal representations of the proposed closure.

4 QUORUM (section 368 of the Act and clause 233 of the Regulation)

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

4.2 A meeting of a Council or committee 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.

4.3 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.

4.4 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 or committee, together with the names of the councillors present.

5 PRESENCE AT COUNCIL MEETINGS AND LEAVE OF ABSENCE (clauses 235 and 235A of the Regulation)

5.1 A councillor cannot participate in a meeting of a Council or committee unless personally present at the meeting.

5.2 Councillors present at meetings are expected to refrain from leaving the meeting room during the course of the meeting, unless the concurrence of the Chair is obtained or they are absenting themselves because of a conflict of interest. Where any councillor leaves the meeting while it is in progress the time at which they left, and the time at which they returned is to be recorded in the minutes of the meeting.

5.3 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.

5.4 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 (2) days' notice of his or her intention to attend.

6 MEETING CHAIRMAN (section 369 of the Act and clause 236 of the Regulation)

6.1 The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor shall preside at meetings of the Council or committee.

- 6.2 If the Mayor and the Deputy Mayor are absent, a councillor elected to chair the meeting by the councillors present will preside at a meeting of the Council or committee.
- 6.3 If no Chairperson is present at a meeting of a Council or committee of Council, at the time designated for the holding of the meeting, the first business of the meeting must be the election of a Chairperson to preside at the meeting.
- 6.4 The election must be conducted
- (a) by the General Manager, or in his or her absence, an employee of the Council designated by the General Manager to conduct the election; or
 - (b) if neither of them is present at the meeting or there is no General Manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.
 - (c) if, at an election of a Chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the Chairperson is to be the candidate whose name is chosen by lot.
 - (d) for the purposes of subclause (c), the person conducting the election must:
 - (i) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
 - (ii) then fold the slips so as to prevent the names from being seen, mix the slips and drawn one of the slips at random.
 - (e) the candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.

7 MOTIONS - CHAIRPERSON'S DUTIES (clause 237, 238, 246 and 247 of the Regulation)

- 7.1 When the Chairperson rises during a meeting of a Council or committee:
- (a) any councillor then speaking or seeking to speak must, if standing, immediately resume his or her seat; and
 - (b) every councillor present must be silent to enable the Chairperson to be heard without interruption.
- 7.2 It is the duty of the Chairperson at a meeting of a Council or committee to receive and put to the meeting any lawful motion that is brought before the meeting.
- 7.3 The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- 7.4 Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.

- 7.5 A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the Chairperson to speak to the motion before calling of the motion to be seconded. Mayoral/Official Minutes and a motion that the question be now put are excepted.
- 7.6 The seconder of a motion or of an amendment may reserve the right to speak later in the debate.
- 7.7 If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before Council at any one time.
- 7.8 It is permissible to debate the motion and an amendment concurrently.
- 7.9 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.

8 MOTIONS OF DISSENT (clause 248 Regulation)

- 8.1 (a) 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.
- (b) 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.
- (c) 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.

9 VOTING ENTITLEMENTS (sections 370 and 371 of the Act)

- 9.1 Each councillor is entitled to one vote.
- 9.2 The person presiding at a meeting of the Council has, in the event of an equality of votes, a second or casting vote.
- 9.3 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 or committee.

10 AGENDA AND BUSINESS PAPERS FOR COUNCIL MEETINGS (Clause 240, 242 and 244 of the Regulation)

- 10.1 The General Manager is to ensure that an agenda for any ordinary meeting of Council or committee of Council states:

- (a) all matters to be dealt with arising out of the proceedings of former meetings of the Council or committee, and
 - (b) if the Mayor the Deputy Mayor if acting for the Mayor is the Chairperson - any matter or topic that the Chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
 - (c) subject to subclause (2), any business of which due notice has been given.
- 10.2 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.
- 10.3 The agenda for a meeting of the Council or a committee of the Council is to be prepared as soon as practicable before the meeting.
- 10.4 The General Manager must ensure that the details of any item of business to which section 9(2A) [*see annexure*] of the Act applies are included in a Business Paper for the meeting concerned.
- 10.5 Nothing in this clause limits the powers of the Chairperson under clause 243 of the Regulation.
- 10.6 If a confidential Business Paper is prepared, the business must be referred to in the ordinary agenda prepared for the same meeting.
- 10.7 The grounds on which a meeting of the Council or committee of Council is closed to the public must be specified in the decision to close the meeting and recorded in the minutes or report of the meeting.
- 10.8 The General Manager must ensure that the agenda for an extraordinary meeting of Council or committee of Council deals only with the matters stated in the Notice of Meeting.
- 10.9 Despite subclause 10.8, business may be transacted at an extraordinary meeting of a Council even though due notice of the business has not been given to the councillors. However, this can happen only if:
- (a) a motion is passed to have the business transacted at the meeting, and
 - (b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

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

- 10.10 Only the mover of a motion referred to in subclause 10.9 can speak to the motion before it is put.

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

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

11 ORDER OF BUSINESS (clause 239 of the Regulation)

11.1 The general order of business at a meeting of Council or committee of Council (other than an extraordinary meeting) will be fixed by Council from time to time and in accordance with this Code of Meeting Practice. Business will be listed by the General Manager as follows:

- (i) Opening of ordinary meeting
- (ii) Forum
- (iii) Apologies
- (iv) Endorsement of Minutes of Previous Council Meeting/s and adoption or acceptance of committee meeting minutes
- (v) Mayoral/Official Minutes
- (vi) Reports to Council by General Manager and relevant staff
- (vii) Reports to Closed Council
- (viii) The General Manager advises the meeting of the Resolutions from the Closed Meeting

11.2 It is an expectation that all councillors, the General Manager and Council employees attending the meeting and the members of the public gallery turn all mobile phone and/or electronic devices onto 'silent' or 'off'.

11.3 The order of business may be altered if a motion to that effect, which can be moved without notice, is carried. Only the mover of such a motion may speak to it before it is put.

12 NOTICE OF BUSINESS (clause 241 of the Regulation)

12.1 In order for business to be transacted at a meeting of Council or committee of Council:

- (a) A councillor must give notice in writing of any business he/she wants discussed by the Monday, of the week prior to the ordinary meeting or committee meeting day to allow inclusion in the agenda. Matters requiring investigation should be lodged as early as possible.

- (b) Notice of the business must be sent to councillors in accordance with the provisions of section 367 of the Act.
- 12.2 Subclause 12.1 does not apply to the consideration of business at a meeting if the business:
 - (a) is already before, or directly relates to a matter that is already before the Council, or
 - (b) is the election of a Chairperson to preside at the meeting as provided by clause 236(1), or
 - (c) is a matter or topic put to the meeting by the Chairperson in accordance with clause 243, or
 - (d) is a motion for the adoption of recommendations of a committee of the Council.
 - (e) reports of committees of the Council;
 - (f) reports from officers which in the opinion of the Chairperson or the General Manager are urgent; and
 - (g) reports from officers placed on the business pursuant to a decision of a committee that additional information be provided to the Council in relation to a matter before the committee.
- 12.3 Business may be transacted at a meeting of Council or committee of Council when due notice has not been given to councillors, but only if:
 - (a) a motion is passed to have the business transacted at the meeting, and
 - (b) the motion is one that can be moved without notice, and
 - (c) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.
- 12.4 Only the mover of a motion referred to in subclause 12.3 can speak to the motion before it is put.

13 MAYORAL/OFFICIAL MINUTES (clause 243 of the Regulation)

- 13.1 If the Mayor, or Deputy Mayor if acting for the Mayor, is the Chairperson of a meeting of a Council, he or she is, by way of minutes 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 committee of which the Council has official knowledge.
- 13.2 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 or the Deputy Mayor if acting for the Mayor, may move the adoption of the minute without the motion being seconded.

- 13.3 A recommendation made in a minute of the Chairperson, being the Mayor or Deputy Mayor if acting for the Mayor, or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council.

14 MINUTES (section 375 of the Act and Clauses 254 and 266 of the Regulation)

- 14.1 The Council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council or committee.
- 14.2 The correctness of the Minutes of every preceding meeting, including extraordinary meeting, not previously confirmed must be dealt with at every ordinary meeting of the Council, in order that such Minutes may be confirmed.
- 14.3 A motion or discussion with respect to such Minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.
- 14.4 Minutes may be confirmed at an extraordinary meeting of the Council.
- 14.5 The minutes must, when they have been confirmed at a subsequent meeting of the Council or committee, be signed by the person presiding at that subsequent meeting.
- 14.6 The General Manager must ensure that the following matters are recorded in the Council's Minutes:
- (a) details of each motion moved at a Council meeting and of any amendments moved to it;
 - (b) the names of the mover and seconder of the motion or amendment, and;
 - (c) whether the motion or amendment is passed or lost.

15 RESCINDING OR ALTERING RESOLUTIONS (section 372 of the Act)

- 15.1 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 regulations made under section 360 and Council's Code of Meeting Practice.
- 15.2 (i) 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.
- (ii) Where a notice of motion to rescind has been given at a meeting, formal notice must be submitted to the General Manager within three (3) working days and if no such notice is received, the resolution may be carried into effect.
- (iii) At any time after the meeting at which it is carried, no further action to carry the resolution into effect may be taken after receipt of the notice of motion until the motion of rescission or alteration has been dealt with.

- 15.3 If a motion has been negated by a Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with the Council's Code of Meeting Practice.
- 15.4 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- 15.5 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 (3) months. This provision may not be evaded by substituting a motion differently worded, but in principle the same.
- 15.6 A motion to which this provision applies may be moved on the report of a committee of the Council or advisory committee of Council and any such report must be recorded in the minutes of the meeting of the Council.
- 15.7 The provisions of this section concerning negated motions do not apply to motions of adjournment.

16 NOTICE OF MOTION - ABSENCE OF MOVER (clause 245 of the Regulation)

- 16.1 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of a Council or committee:
- (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 or committee at which the motion can be considered.

17 NOTICES OF MOTION – MINIMUM NOTICE REQUIRED

- 17.1 A formal Notice of Motion by a councillor, not being the Mayor, which is to be included in the General Manager's report in a Business Paper, should be submitted in writing to the General Manager seven days before the meeting at which it is to be resolved, unless the matter is of an urgent nature.
- 17.2 If the Mayor wishes, because of importance or urgency, he/she may include the matter in a Mayoral minute. If the Mayor refuses to accept the motion for inclusion in a Mayoral minute, such a refusal shall be noted and recorded in the minutes of the meeting.
- 17.3 Staff, through the General Manager, may comment on a councillor's Notice of Motion, but shall not make a recommendation.
- 17.4 Presentation of the Notice of Motion shall not be delayed beyond the next Ordinary meeting of Council without the consent of the Mayor and the councillor lodging the Notice of Motion, or the Council in meeting.

- 17.5 The Mayor may, at the request of the councillor giving notice of motion or with his consent, present the Notice of Motion to Council as a Mayoral minute.
- 18 QUESTIONS MAY BE PUT TO COUNCILLORS AND COUNCIL EMPLOYEES** (clause 249 of the Regulation)
- 18.1 A councillor:
- (a) may, through the Chairperson, put a question to another councillor; and
 - (b) may, through the Chairperson and the General Manager, put a question to a Council employee.
- 18.2 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.
- 18.3 The councillor must put every such question directly, succinctly and without argument.
- 18.4 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 section.
- 18.5 Nothing in this clause affects questions being asked, with the leave of the Chairperson, relevant to any matter under discussion at a meeting.
- 19 LIMITATION AS TO NUMBER OF SPEECHES** (Clause 250 of the Regulation)
- 19.1 A councillor who, during a debate at a meeting of a Council or committee, 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.
- 19.2 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.
- 19.3 A councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the Chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 19.4 Despite subclauses 19.1 and 19.2, 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 (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.

- 19.5 The Chairperson must immediately put to the vote, without debate, a motion moved under subclause 19.4. A seconder is not required for such a motion.
- 19.6 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 19.1.
- 19.7 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.
- 19.8 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.

20 VOTING AT COUNCIL MEETINGS (clause 251 of the Regulation)

- 20.1 A councillor who is present at a meeting of a Council or committee but who fails to vote on a motion put to the meeting is taken to have voted against the motion. This does not apply to a councillor who has declared a pecuniary interest in the matter before Council.
- 20.2 If a councillor who has voted against a motion put at a Council or committee meeting so requests, the General Manager must ensure that the councillor's dissenting vote is recorded in the minutes.
- 20.3 The decision of the Chairperson as to the result of a vote is final unless the decision is immediately challenged and not fewer than two (2) councillors rise and demand a division.
- 20.4 When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes.
- 20.5 Voting at a Council meeting, including voting in an election at such a meeting, is to be by open means, such as on the voices or by show of hands. However, the Council may resolve that the voting in any election by councillors for the Mayor or Deputy Mayor is to be by secret ballot.
- 20.6 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.

21 QUESTIONS OF ORDER (clause 255 of the Regulation)

- 21.1 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.
- 21.2 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.

- 21.3 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.
- 21.4 The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

22 ACTS OF DISORDER (clause 256 of the Regulation)

- 22.1 A councillor commits an act of disorder if the councillor, at a meeting of a Council or committee of a Council:
- (a) contravenes the Act or any regulation in force under the Act or this Code
 - (b) assaults or threatens to assault another councillor or person present at the meeting
 - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or committee, or 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.
- 22.2 The Chairperson may require a councillor
- (a) to apologise without reservation for an act of disorder referred to in subclause 22.1 (a) or (b)
 - (b) to withdraw a motion or an amendment, referred to in subclause 22.1 (c) and, where appropriate, to apologise without reservation
 - (c) to retract and apologise without reservation for an act of disorder referred to in subclause 22.1 (d) or (e).
- 22.3 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of a Council for having failed to comply with a requirement under subclause 22.2. 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.

23 HOW DISORDER AT A MEETING MAY BE DEALT WITH (clause 257 of the Regulation)

- 23.1 If disorder occurs at a meeting of a Council or committee of the Council, the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, on reassembling, must, on a question put from the Chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to

disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

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

24 POWER TO REMOVE PERSONS FROM MEETING AFTER EXPULSION RESOLUTION (clause 258 of the Regulation)

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

(a) immediately after the Council has passed a resolution expelling the councillor or member from the meeting, or

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

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

25 COMMITTEE OF THE WHOLE (clause 259 of the Regulation)

- 25.1 The Council may resolve itself into a Committee of the Whole to consider any matter before the Council.
- 25.2 All the provisions of this Regulation relating to meetings of a Council or committee, 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.
- 25.3 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.
- 25.4 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.

26 RESOLUTIONS OF CLOSED MEETINGS TO BE MADE PUBLIC (clause 253 of the Regulation)

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

- 26.2 Obviously, in some circumstances, commercial or legal issues will determine when it is practicable to release details. However, as a general rule, the public should be kept informed of committee or closed session resolutions in an adequate and timely manner.

27 INFORMATION RELATING TO PROCEEDINGS AT CLOSED MEETINGS NOT TO BE DISCLOSED

- 27.1 If a meeting or part of a meeting of a Council or a committee of a Council is closed to the public in accordance with section 10A of the Act, a person must not, without authority of the Council or the committee, disclose, otherwise than to the Council or to a councillor, information with respect to the discussion at, or the business of, the meeting.

- 27.2 This clause does not apply

- (a) to the report of an advisory committee of Council when represented to the Council, or
- (b) to the disclosure of information referred to in subclause 27.1 by a councillor or employee of the Council in the course of the councillor's or employee's duties.

28 INSPECTION OF THE MINUTES OF COUNCIL, COMMITTEES OR ADVISORY COMMITTEES (Clause 272 of the Regulation)

- 28.1 An inspection of the minutes* of a Council, committee of a Council or advisory committee 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.
- 28.2 The General Manager must ensure that the minutes of the Council and any minutes of a committee of the Council or advisory committee are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

* Section 12 of the Act confers a right, restricted in the case of closed parts of meetings, to inspect the minutes of a Council or committee of a Council.

29 ACCESS TO RECORDS

- 29.1 The General Manager may allow or refuse to allow any councillor to inspect any record of the Council that the councillor requests to see.
- 29.2 If the General Manager refuses to allow a councillor to inspect any such records, the councillor may, at a meeting of the Council, move for the production of the document. However, the councillor must give notice of intention to move the motion.
- 29.3 If the Council passes a motion for the production of a Council record, the General Manager must ensure that the record
- (a) is produced immediately and laid on the table for inspection by the councillors, and

- (b) is made available for inspection by any councillor on reasonable notice to the General Manager during the Council's ordinary office hours on any day that is within one (1) month after the passing of the motion.

29.4 Nothing in this clause derogates from the common law right of councillors to inspect any record of the Council relating to any business before the Council, except where the councillor requesting inspection has a pecuniary interest in the matter.

30 TAPE RECORDING OF MEETING OF COUNCIL, COMMITTEE OR ADVISORY COMMITTEE PROHIBITED WITHOUT PERMISSION (clause 273 of the Regulation)

30.1 A person may use a tape recorder to record the proceedings of a meeting of a Council, a committee of a Council or advisory committee only with the authority of the Council, the committee or advisory committee.

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

30.3 If any such person, after being notified of such 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.

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

31 COUNCIL MAY APPOINT/ESTABLISH ADVISORY COMMITTEES (clause 260 of the Regulation)

31.1 Council may, by resolution, appoint or establish such advisory committees as it considers necessary.

31.2 Advisory committees are bound by the provisions of this Code of Meeting Practice except for:

- (a) Clause 3 relating to procedures to go into closed committee, and;

- (b) Clause 2.3 relating to the requirement to advertise meeting dates times and places.

31.3 Advisory committees are to consist of such number of councillors, Council employees and outside representatives as the Council decides.

31.4 In all instances, except where specifically resolved by Council, Council employees shall have no voting rights.

31.5 The quorum for a meeting of an advisory committee is to be such number of members as the Council decides, or if the Council has not decided a number - a majority of the members of the advisory committee.

- 31.6 A Council committee must keep minutes. This, and section 12(1) of the Act, will ensure that committee recommendations or decisions made under delegated power are available for public inspection.

32 FUNCTIONS OF ADVISORY COMMITTEES (clause 261 of the Regulation)

- 32.1 Council will specify the functions of each of its advisory committees when the advisory committee is appointed or established, but may from time to time amend those functions.

33 NOTICE OF ADVISORY COMMITTEE MEETING TO BE GIVEN (clause 262 of the Regulation)

- 33.1 The General Manager, or Council employee as delegated by the General Manager, must send to each advisory committee member, at least **seven (7)** days before each meeting of the advisory 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.

- 33.2 However, notice of less than five (5) days may be given of an advisory committee meeting called in an emergency.

34 NON-MEMBERS ENTITLED TO ATTEND ADVISORY COMMITTEE MEETINGS (Clause 263 of the Regulation)

- 34.1 A councillor who is not a member of an advisory committee of a Council is entitled to attend, and speak at, a meeting of the committee.

- 34.2 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

- 34.3 The General Manager or his or her representative, when all his or her nominees are at the advisory committee meeting, is entitled to attend and speak at, but is not entitled to vote at, a meeting of the advisory committee.

35 PROCEDURE IN ADVISORY COMMITTEES (clause 265 of the Regulation)

- 35.1 Each advisory committee of a Council may regulate its own procedure but must have regard to this Code of Meeting Practice.

- 35.2 Without limiting subclause 35.1, an advisory committee of a Council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the Chairperson of the committee is to have a casting vote as well as an original vote.
- 35.3 Voting at a committee meeting is to be by open means such as on the voices or by show of hands.
- 36 CHAIRPERSON AND DEPUTY CHAIRPERSON OF ADVISORY COMMITTEES** (clause 267 of the Regulation)
- 36.1 The Chairperson of each advisory committee of the Council must be
- (a) The Mayor, or
 - (b) if the Mayor does not wish to be the Chairperson of an advisory 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 advisory committee elected by the advisory committee.
- 36.2 A Council may elect a member of an advisory committee of the Council as Deputy Chairperson of the advisory committee. If the Council does not elect a Deputy Chairperson of such an advisory committee, the advisory committee may elect a Deputy Chairperson.
- 36.3 If neither the Chairperson nor the Deputy Chairperson of an advisory committee of a Council is able or willing to preside at a meeting of the advisory committee, the advisory committee must elect a member of the committee to be Acting Chairperson of the advisory committee.
- 36.4 The Chairperson is to preside at a meeting of an advisory committee of a Council. If the Chairperson is unable or unwilling to preside, the Deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the Deputy Chairperson is able or willing to preside, the Acting Chairperson is to preside at the meeting.
- 36.5 The Mayor is, by virtue of holding that Office, a member of each advisory committee of the Council except for the Work Health and Safety Advisory Committee and the Consultative Advisory Committee where there are legislative requirements concerning membership.
- 37 ABSENCE FROM ADVISORY COMMITTEE MEETINGS** (Clause 268 of the Regulation)
- 37.1 A member other than the Mayor ceases to be a member of an advisory committee if the member:
- (a) has been absent from three (3) consecutive meetings of the advisory committee without having given reasons acceptable to the advisory committee for the member's absences, or

- (b) has been absent from at least half of the meetings of the advisory committee held during the immediately preceding year* without having given to the advisory committee acceptable reasons for the member's absences.

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

37.2 Subclause 37.1 does not apply in respect of a committee that consists of all of the members of the Council.

37 REPORTS OF ADVISORY COMMITTEES (Clause 269 of the Regulation)

38.1 If in a report of an advisory committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation.

38.2 The recommendations of an advisory committee of the Council are, so far as adopted by the Council, resolutions of the Council.

38.3 If an advisory 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.

38 DISORDER IN ADVISORY COMMITTEE MEETINGS (clause 270 of the Regulation)

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

39 ADVISORY COMMITTEE MAY EXPEL CERTAIN PERSONS FROM ITS MEETING (clause 271 of the Regulation)

40.1 If a meeting or part of a meeting of an advisory committee of a Council is closed to the public in accordance with section 10A of the Act, any person who is not a councillor may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.

40.2 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.

40 COUNCIL DECISIONS (section 374 of the Act)

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

- (a) a vacancy in a civic office, or
- (b) a failure to give notice of the meeting to any councillor or committee member, or
- (c) any defect in the election or appointment of a councillor or committee member, or
- (d) a failure of a councillor or a committee member to disclose a pecuniary interest, or to refrain from the consideration or discussion of/or vote on, the relevant matter, at a Council or committee meeting in accordance with section 451, or
- (e) a failure to comply with the Code of Meeting Practice.

42 RECORDING OF VOTING ON PLANNING MATTERS (section 375A of the Act)

- 42.1 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* (‘EPA Act’):
- (a) including a decision relating to a Development Application, an Environmental Planning Instrument, a Development Control Plan or a Development Contribution Plan under the EPA Act, but
 - (b) not including the making of an order under division 2A of part 6 of the EPA Act.
- 42.2 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.
- 42.3 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.
- 42.4 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document, and is to include the information required by the regulations.
- 42.5 This section extends to a meeting that is closed to the public.

43 ATTENDANCE OF GENERAL MANAGER AT MEETINGS (section 376 of the Act)

- 43.1 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.
- 43.2 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.
- 43.3 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.

44 COUNCIL SEAL (clause 400 of the Regulation)

- 44.1 The seal of a Council must be kept by the Mayor or the General Manager, as the Council determines.
- 44.2 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 (2) councillors other than the Mayor
- 44.3 The affixing of a Council seal to a document has no effect unless the persons who were present when the seal was affixed, being persons referred to in subclause 44.2, attest by their signatures that the seal was affixed in their presence.
- 44.4 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.
- 44.5 For the purposes of subclause 44.4, a document in the nature of a reference or certificate of service for an employee does not relate to the business of the Council.

Annexure

Extracts from the *Local Government Act 1993*

Section 9 provides:

- (1) 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.
- (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 (such as correspondence and reports) for the meeting.
- (2A) 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 (2) with respect to the availability of business papers do not apply to the business papers for that item of business.
- (3) The copies are to be available to the public as nearly as possible to the time they are available to councillors.
- (4) The copies are to be available free of charge.
- (5) A notice given under this section or a copy of an Agenda or of a Business Paper made available under this section may in addition be given or made available in electronic form.

Section 10A provides:

- (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 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 or an item of Aboriginal significance on community land,
- (i) alleged contraventions of any code of conduct requirements applicable under section 440.

Sections 10A(3) and (4) provide:

- (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.
- (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

PROCEDURE DOCUMENT CONTROL:

	Version	Resolution	Date
Code of Meeting Practice	1	196	20 May 2005
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