

Policy

Code of Meeting Practice

Version 2.3

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TABLE OF CONTENTS

CODE OF MEETING PRACTICE	7
INTRODUCTION	7
PART 1 - BEFORE THE MEETING	7
1.1 HOLDING MEETINGS	7
1.1.1 HOW OFTEN DOES THE COUNCIL MEET?	7
1.1.2 WHERE ARE COUNCIL MEETINGS HELD?	7
1.1.3 CALLING OF EXTRAORDINARY MEETING ON REQUEST BY COUNCILLORS	8
1.2 NOTICE OF MEETINGS	8
1.3 MEETINGS	8
1.3.1 GIVING NOTICE OF BUSINESS	8
1.3.2 BUSINESS PAPER FOR EXTRAORDINARY MEETINGS	9
1.4 AGENDAS AND BUSINESS PAPERS	10
1.4.1 COPY OF BUSINESS PAPER	10
1.4.1.1 TIME OF AVAILABILITY	10
1.4.1.2 NO CHARGE	10
1.4.2 BUSINESS PAPERS FOR COUNCIL MEETINGS	10
1.4.3 ADDITIONAL INFORMATION	11
1.4.4 CAN AN ITEM OF BUSINESS WHICH IS ON THE AGENDA BE REMOVED FROM THE AGENDA PRIOR TO THE MEETING?	11
1.5 ORDER OF BUSINESS	11
1.5.1 MAYORAL MINUTE	13
1.5.2 ORDERS OF THE DAY	13
1.5.3 QUESTIONS ON NOTICE	13
1.5.4 RECEIPT OF PETITIONS	13
1.5.5 DELEGATES REPORTS	14
1.6 ACCESS TO RECORDS	14
1.6.1 ARE PAPERS CREATED OR RECEIVED BY COUNCILLORS CLASSIFIED AS COUNCIL DOCUMENTS?	14
1.6.2 CAN COUNCILLORS COPY INFORMATION ADDITIONAL TO THE BUSINESS PAPERS (SUCH AS PLANS AND LEGAL OPINIONS FROM COUNCIL FILES) AND GIVE IT TO THE PUBLIC?	15
PART 2 – AT THE MEETING	15
2.1 WHO PRESIDES AT MEETINGS OF THE COUNCIL?	15
2.2 COUNCILLOR TO BE ELECTED TO PRESIDE AT CERTAIN MEETINGS	16
2.3 CHAIRPERSON TO HAVE PRECEDENCE	16
2.4 CHAIRPERSON'S DUTY WITH RESPECT TO MOTIONS	16
2.4.1 CHAIRPERSON MAY SEPARATE MOTIONS OR ALLOW MOTIONS TO BE MOVED IN BLOCK	16
2.5 VOTING AT COUNCIL MEETINGS	17
2.6 REPORT OF A DIVISIONAL REPRESENTATIVE TO BE TABLED AT COUNCIL MEETING	18
2.7 OUTSTANDING RESOLUTIONS	18
2.8 WHAT CONSTITUTES A DECISION OF THE COUNCIL?	18
2.8.1 ARE COUNCIL DECISIONS AFFECTED WHEN COUNCILLORS CHANGE?	18
2.9 RECORDING OF MEETING OF COUNCIL OR COMMITTEE PROHIBITED WITHOUT PERMISSION	18
2.10 MOBILE PHONES	19
2.11 PUBLIC GALLERY ETIQUETTE	19
PART 3 – CONFLICTS OF INTERESTS (PECUNIARY AND NON-PECUNIARY)	19
3.1 EXPRESSING AN INTEREST IN AN ITEM	19
3.1.1 WHAT IS A PECUNIARY INTEREST?	20
3.1.2 WHAT IS A NON-PECUNIARY CONFLICT OF INTERESTS?	20
3.1.3 MANAGING NON-PECUNIARY CONFLICT OF INTERESTS	21

PART 4 – ATTENDANCE AT MEETINGS	22
4.1 ATTENDANCE AT MEETINGS	22
4.1.1 PRESENCE AT COUNCIL MEETINGS	23
4.1.2 TIME LIMITS ON COUNCIL MEETINGS	23
4.1.3 WHAT IS THE QUORUM OF A MEETING?	24
4.1.4 WHAT HAPPENS WHEN A QUORUM IS NOT PRESENT?	24
4.2 HOW SHOULD COUNCILLORS BE ADDRESSED AT COUNCIL MEETINGS?	24
4.3 HOW SHOULD THE CHAIRPERSON BE ADDRESSED AT COUNCIL MEETINGS?	24
PART 5 – MOTIONS AND AMENDMENTS	25
5.1 NOTICE OF MOTION	25
5.2 MOTIONS IN WRITING	25
5.3 NOTICE OF MOTION - ABSENCE OF MOVER	25
5.4 MOTIONS TO BE SECONDED	25
5.5 HOW SHOULD AN AMENDMENT TO A MOTION BE WORDED?	26
5.6 AMENDMENTS TO MOTIONS	26
5.6.1 ALTERNATE MOTIONS	26
5.7 CAN THE CHAIRPERSON RULE AN AMENDMENT TO BE NEW BUSINESS AND THEREFORE OUT OF ORDER WHEN DISCUSSING THE CURRENT MOTION?	27
5.8 MOTIONS PUT WITHOUT FORMAL DEBATE	27
5.9 LIMITATION AS TO NUMBER OF SPEECHES	27
5.10 DEBATE MUST BE RELEVANT TO THE MOTION	27
5.11 QUESTIONS MAY BE PUT TO COUNCILLORS AND COUNCIL EMPLOYEES	28
5.12 MOTION BE NOW PUT	28
5.13 UNACCEPTABLE MOTIONS	29
5.14 MOTIONS OF DISSENT	29
5.15 FORESHADOWING ANOTHER MOTION	29
5.16 OBLIGATIONS	30
PART 6 – RESCISSION MOTIONS	30
6.1 RESCINDING OR ALTERING RESOLUTIONS	30
PART 7 – CLOSED PARTS OF MEETINGS	30
7.1 CLOSURE OF MEETINGS TO THE PUBLIC (CONFIDENTIAL SESSION)	30
7.2 INFORMATION RELATING TO PROCEEDINGS AT CLOSED MEETINGS NOT TO BE DISCLOSED	31
PART 8 – ORDER AT MEETINGS	32
8.1 QUESTIONS OF ORDER	32
8.2 POINTS OF ORDER	33
8.3 ACTS OF DISORDER	33
8.4 HOW DISORDER AT A MEETING MAY BE DEALT WITH	34
8.5 RELATIONSHIP BETWEEN COUNCILLORS AND COUNCIL STAFF	35
PART 9 – COMMITTEES, THEIR MEMBERS AND FUNCTIONS	35
9.1 COMMITTEE OF COUNCIL	35
9.2 COMMITTEE OF THE WHOLE	35
9.3 COUNCIL MAY ESTABLISH COMMITTEES	36
9.4 FUNCTIONS OF COMMITTEES	36
9.5 NOTICE OF COMMITTEE MEETINGS TO BE GIVEN	36
9.6 PROCEDURE IN COMMITTEES	36
9.7 COMMITTEES TO KEEP MINUTES	37
9.8 CHAIRPERSON AND DEPUTY CHAIRPERSON OF COMMITTEES	37
9.9 ABSENCE FROM COMMITTEE MEETINGS	37
9.10 REPORTS OF COMMITTEES	37
9.11 DISORDER IN COMMITTEE MEETINGS	38
9.12 POWER TO REMOVE PERSONS FROM MEETING AFTER EXPULSION RESOLUTION	38

9.13 COMMITTEE MAY EXPEL CERTAIN PERSONS FROM ITS MEETINGS	38
PART 10 - MINUTES	39
10.1 MINUTES	39
10.2 CONFIRMATION OF MINUTES	39
10.3 CERTAIN CIRCUMSTANCES DO NOT INVALIDATE COUNCIL DECISIONS	39
10.4 INSPECTION OF THE MINUTES OF THE COUNCIL OR COMMITTEE	40
PART 11 – QUESTIONS ON NOTICE	40
11.1 QUESTIONS ON NOTICE	40
11.1.1 LIMITATIONS TO QUESTIONS ON NOTICE	40
PART 12 - WORKSHOPS	41
12.1 FREQUENCY	41
12.2 REQUEST	41
12.3 LIMITATIONS	41
12.4 CONDUCT	41
12.5 ATTENDANCE	41
12.6 PROCEDURE	41
12.7 WORKSHOP DOCUMENTS	42
PART 13 – COMMUNITY ACCESS	42
13.1 COMMUNITY ACCESS	42
13.2 CAN A COUNCILLOR SPEAK TO THE COUNCIL AS A RESIDENT OR RATEPAYER IN THE PUBLIC ACCESS SECTION OF A MEETING?	44
PART 14 – DEFINITIONS	45
14.1 DEFINITIONS	45

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Code of Meeting Practice

Introduction

Meeting procedures contribute to good public decision-making and increase council's transparency and accountability to its community. Councillors are accountable to their communities for the decisions that they make. Those decisions should be based on sound and adequate information. The conduct of effective meetings is an indicator of good governance. Well run meetings reflect an effective partnership and relationship between the governing body of council and council administration.

The Act Sections 232 and 439

The principles upon which this Code are based upon those that underpin the Model Code of Conduct. Meetings must be run fairly and the procedures used should improve decision-making, not personal or political advantage.

The Code of Meeting Practice applies to all meetings of Council and to all Committee meetings of Council without exception. Any matters arising regarding procedure of meetings are to be determined by the Code of Meeting Practice.

In the absence of a specific matter being contained in the Code of Meeting Practice the meeting shall abide by the ruling from the Chairperson.

PART 1 - BEFORE THE MEETING

1.1 Holding Meetings

1.1.1 How often does the council meet?

Ordinary council meetings are held on a regular basis, as decided by the council. Each council must meet at least ten (10) times a year, with each meeting being in a different month.

The Act Sec 365

1.1.2 Where are council meetings held?

Council meetings are normally held in the Council Chambers Civic and Cultural Centre, Tumbulgum Road, Murwillumbah. It is up to the council to decide when and where to have the meeting.

These meetings are open to the public. Confidential items are considered in closed session, which excludes press and public.

Council Meetings will be normally conducted on the third Thursday of the month, commencing at 4.45pm which may be preceded by any Reserve Trust meeting(s) – if necessary, which commence at 4.30pm.

Dates of proposed meetings are available on Council's Internet site.

1.1.3 Calling of Extraordinary Meeting on Request by Councillors

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

The Mayor can be one of the two councillors, but the Mayor cannot call extraordinary meetings without a written request with another councillor's signature.

The Act Sec 366

Extraordinary meetings are not only held in 'extraordinary' circumstances. These meetings are usually held to deal with special business or where there is so much business to be dealt with that an additional meeting is required.

The Regulation Clause 242

1.2 Notice of Meetings

Council will give public notice of the time and place of ordinary council and committee meetings (s.9 of the Act). The notice is published in Council's newspaper The Tweed Link, indicating the time and place of the meeting (cl.232 of the Regulation).

Each Councillor must receive, on the Tuesday of the week preceding the Council meeting, 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.

Notice of all meetings shall be in writing and delivered to each Councillor with the complete agenda.

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

The Act Sec 367

1.3 Meetings

1.3.1 Giving Notice of Business

The Council must not transact business at a meeting of the Council:

- (a) unless a Councillor has given notice of the business in writing within such time before the meeting as is fixed by this code of meeting practice; or as is fixed by resolution of the Council, and
- (b) unless notice of the business has been sent to the Councillors in accordance with Section 367 of the Act.

The Regulation Clause 241(1)

This sub-clause does not apply to the consideration of business at a meeting if the business was considered at an earlier meeting of the Council.

The Regulation Clause 241(2)

Despite this sub-clause business may be transacted at a meeting of a Council even though due notice of the business has not been given to Councillors, but only if:

- (a) a motion is passed to have the business transacted at the meeting; and
- (b) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency

Such a motion can be moved without notice.

The Regulation Clause 241(1)(3)

Only the mover of a motion referred to above can speak to the motion before it is put.

The Regulation Clause 241(1)(4)

1. No item in the Business Papers and no attachment thereto (Development Control Plans, s94 Plans, Conditions of Consent, General Manager's Quarterly Report and the like excepted) is to individually exceed twenty (20) pages in length, and no item is to be split to circumvent this restriction.
2. All attachments to the Business Paper are to be paginated and indexed, and page referenced in the relevant item in the Business Papers, or alternatively tab indexed.
3. All late arriving/departing correspondence and all memoranda relevant to a matter in the Business Papers, is to be immediately communicated to all Councillors unless there is compelling reason(s) for departure from this rule.
4. No matter is to be unreasonably held back by Council's staff so as to cause a matter to become urgent. An explanation for any departure from this rule will be provided by the General Manager.
5. Items relating to Development Applications are to clearly indicate the options available to Council, including the concise, practical and legal ramifications of each option.
6. Suggested amendments to a previous draft Development Control Plan, s94 Plan, Conditions of Consent and the like are to be incorporated into the complete document (by italics or underlining) to enable the amendments to be read in context.

(Resolution of Council 3 May 2000)

1.3.2 Business Paper for Extraordinary Meetings

The General Manager must ensure that the business paper for an extraordinary meeting of the Council deals only with the matters stated in the notice of the meeting.

Despite the sub-clause, business may be transacted at an Extraordinary meeting of Council even though due notice of the business has not been given to the Councillors. However, this can happen only if:

- (a) a motion is passed to have the business transacted at the meeting; and
- (b) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency.

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

Only the mover of a motion referred to in the immediate sub-clause can speak to the motion before it is put.

The Regulation Clause 242

Unless established to the reasonable satisfaction of the General Manager, and then only in a case of great urgency, no item will be considered by Council unless a minimum of three (3) clear days' notice is given.

(Resolution of Council 3 May 2000)

1.4 Agendas and Business Papers

1.4.1 Copy of Business Paper

Council and each 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 business paper for the meeting. This requirement does not apply to a business paper for a matter that, in the opinion of the General Manager, is likely to be considered when the meeting is closed to the public.

The Act Sec 9(2)

1.4.1.1 Time of Availability

A copy of the Meeting Agenda is to be placed in the three (3) Council Libraries and is available to the public and media as nearly as possible to the time they are available to Councillors, including electronic copies on Council's Web Site from 8.00pm on the Tuesday of the week preceding the Council meeting.

The Act Sec 9(3)

1.4.1.2 No Charge

The copies are to be available free of charge.

The Act Sec 9(4)

1.4.2 Business Papers for Council Meetings

The General Manager must ensure that the business paper for a meeting of the Council or Committee states:

- (a) all matters to be dealt with arising out of the proceedings of former meetings of the Council or Committee; and
- (b) any business that the Chairperson may decide to put before the meeting without notice; and

(c) any business of which due notice has been given.

The Regulation Clause 240(1)

The General Manager must cause the business paper for a meeting of the Council or a Committee of the Council to be distributed on the Tuesday of the week preceding the Council meeting.

The Regulation Clause 240(3)

The General Manager must ensure that the details of any item of business to which Section 10(2A) of the Act applies are included in a business paper for the meeting concerned.

The Regulation Clause 240(4)

In preparation for the meeting, Councillors are expected to have read and familiarised themselves with the Business Paper Reports.

Adopted by Council November 2012

1.4.3 Additional Information

Council may direct the General Manager to provide councillors with additional information. If this is done, it is suggested that the additional information be marked separately from the business papers so as to avoid any confusion. Additional information will not be automatically available to the public like the business papers.

Any information given to a particular councillor in the performance of their civic duties must also be available to any other councillor who requests it in accordance with council policies and procedures.

Code of Conduct Part 7

1.4.4 Can an item of business which is on the agenda be removed from the agenda prior to the meeting?

Once the agenda for a meeting has been sent to councillors an item of business on the agenda should not be removed from the agenda prior to the meeting.

If it is proposed that an item of business which is on the agenda not be dealt with at the meeting council should resolve to defer that business to another meeting or resolve not to consider the matter, as the case may be.

1.5 Order of Business

At a meeting of the Council or Committee (other than an extraordinary meeting), the general order of business will be as follows such as the Council has fixed by resolution passed at any previous meeting or, if no such resolution has been passed, as follows:

The Regulation Clause 239(1)

The order of business at Ordinary Meetings shall be:

1. Aboriginal Statement
2. Prayer
3. Confirmation of Minutes
4. Apologies
5. Disclosure of Interest
6. Items to be Moved from Confidential to Ordinary/Ordinary to Confidential
7. Schedule of Outstanding Resolutions
8. Mayoral Minute
9. Orders of the Day
10. Questions on Notice
11. Receipt of Petitions
12. Reports through the General Manager
 - Reports from the General Manager
 - Reports from the Director Planning & Regulation
 - Reports from the Director Community & Natural Resources
 - Reports from the Director Engineering & Operations
 - Reports from the Director Technology & Corporate Services
13. Delegate Reports
14. Reports from Sub-Committees/Working Groups
15. Confidential Items for Consideration

The order of business fixed as above may be altered if a motion to that effect is carried, such a motion can be moved without notice.

The Regulation Clause 239(2)

1.5.1 Mayoral Minute

The Mayor may put to a meeting (without notice) any matter which the council is allowed to deal with or which the council officially knows about. This would cover any council function under the Act or other legislation, or any matter that has been brought to the council's attention, for example, by letter to the Mayor or the General Manager.

The Regulation Clause 243(1)

This power to make Mayoral Minutes recognises the special role of the Mayor. A Mayoral Minute overrides all business on the agenda for the meeting, and the Mayor may move that the minute be adopted without the motion being seconded.

Mayoral Minutes should not be used to introduce, without notice, matters that are routine, not urgent, or need research or a lot of consideration by the Councillors before coming to a decision. These types of matters would be better placed on the agenda, with the usual period of notice being given to the Councillors.

1.5.2 Orders of the Day

The Orders of the Day shall list Notices of Motion as per Part 5 of the Code of Meeting Practice.

1.5.3 Questions on Notice

Questions on Notice shall be in accordance with Part 11 of the Code of Meeting Practice.

1.5.4 Receipt of Petitions

Petitions presented to Council must be in writing (other than pencil), typing or printing. Petitions must contain the request of the petitioners or signatories. To qualify as a 'petition' there must be at least 5 signatories.

Petitions must be signed by the persons whose names are appended to it by their names or marks, and, except in cases of incapacity or sickness, by no one else and the address of every petitioner or signatory must be clearly stated. Any signature appearing on a page which does not bear the text of the whole of the petition or request may not be considered by Council.

Every page of a petition or joint letter must be a single page of paper and not be posted, stapled, pinned or otherwise affixed or attached to any piece of paper other than another page of the petition or joint letter.

Petitions received by Councillors or forwarded to the General Manager will be tabled as per the Order of Business, Item 11, Receipt of Petitions.

Unless Council determines to consider it in conjunction with a report already listed on the agenda, no motion (other than a motion to receive the same) may be made on any petition until the next Ordinary Meeting after that at which it has been presented.

Petitions will not be published in Council's Business Papers, other than to state the name of the Petition and the number of signatories so as to accord with the *Privacy and Personal Information Protection Act 1998* (PPIPA) with respect to the use and communication of personal information contained in petitions. Section 18 of PPIPA provides that a council may not communicate personal information 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.

If a petition, relates to an operational matter, Council must refer it to the General Manager for consideration.

1.5.5 Delegates Reports

A Councillor who is a Council appointed delegate to an external body such as Far North Coast Weeds, Richmond Tweed Regional Library, Destination Tweed, Rural Fire Committee, Arts Northern Rivers and NOROC may present to Council on the deliberations of the external body.

1.6 Access to Records

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.

This section does not apply if the correspondence or reports:

- (a) relate to a matter that was received or discussed; or
- (b) were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public.

This section 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 Section 10A(2), are to be treated as confidential.

The Act Sec 11

1.6.1 Are papers created or received by councillors classified as council documents?

Council documents include those created or received in the course of the official duties by councillors. Information generated by, in the possession of, or under the control of the councillors that concerns their civic or council duties under any Act is considered by the Division to be a document of the council. These documents may include information that does not form part of the council's official filing system.

1.6.2 Can councillors copy information additional to the business papers (such as plans and legal opinions from council files) and give it to the public?

Section 664(1) of the Act states that “a person must not disclose any information obtained in connection with the administration or execution of the Act unless that disclosure is made:

- (a) with the consent of the person from whom the information was obtained; or
- (b) in connection with the administration or execution of the Act; or
- (c) for the purposes of any legal proceedings arising out of the Act or of any report of any such proceedings; or
- (d) in accordance with a requirement imposed under the *Ombudsman Act 1974* or the *Government Information Public Access Act 2009*; or
- (e) with other lawful excuse.”

In particular, if part of a meeting 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.

There is a maximum penalty of 50 penalty units for breach of this provision.

The Act Sec 664

Provided the additional information is not part of the business paper and is made publicly available, it can only be given out in accordance with section 664(1) of the Act. It is also important to remember copyright law when making copies of information.

Council has an Access to Information Policy that is to be followed for public access to documents as provided under the *Government Information Public Access Act 2009*, subject to the *Privacy and Personal Information Protection Act 1998*.

Section 10 of the Code of Conduct highlights access to and use of personal, council and confidential information. The Right to Information Officers, rather than individual councillors, are the appropriate people to assist members of the public to access documents.

PART 2 – AT THE MEETING

2.1 Who Presides at Meetings of the Council?

The mayor or, at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council. If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

The Act Sec 369

2.2 Councillor to be Elected to Preside at Certain Meetings

If no Chairperson is present at a meeting of the Council or Committee 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.

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.

The Regulation Clause 236(1)

2.3 Chairperson to Have Precedence

When the Chairperson rises during a meeting of a Council:

- (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.

The Regulation Clause 237

2.4 Chairperson's Duty With Respect to Motions

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.

The Chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.

Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected.

The Regulation Clause 238

2.4.1 Chairperson May Separate Motions or Allow Motions to be Moved in Block

- (a) The Chairperson may decide to put any motion to the vote in several parts.
- (b) The Chairperson may allow or request Councillors to move "like items" in block.
- (c) When considering items within the Order of Business, 1.5 (13) - Reports through the General Manager, the Mayor may enquire if the Councillors wish to speak to any of the items contained within the Reports from the General Manager and individual Directors. Depending on the request to speak to or debate an item, the Mayor may put the items individually or request an *englobo* motion to consider all other items not identified for discussion.

2.5 Voting at Council Meetings

Each Councillor is entitled to one vote.

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.

The Regulation Clause 251(5)

Council may utilise an electronic device to record the votes cast by councillors, but the requirement that voting take place by 'open means' still applies. Votes in writing are not permitted.

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

The Act Sec 370

A councillor must be present (in person) at the council or committee meeting to vote. Councillors cannot participate in a meeting by video-conferencing or teleconference. There are no 'proxy' votes at council or committee meetings. (A 'proxy' is a system where an absent councillor can cast his or her vote by giving their vote to another councillor).

The Regulation Clause 235

A Councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion. It is important to remember that if a councillor is anywhere in the room where the council meeting is being held, they are considered to be 'present' for the purposes of voting. This means that if they are in the room but do not vote on an issue (for example, by staying silent) their vote is taken as against the motion.

The Regulation Clause 251(1)

If a Councillor who has voted against a motion put at the Council meeting so requests, the General Manager must ensure that the Councillors' dissenting vote is recorded in the Council's minutes.

The Regulation Clause 251(2)

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.

The Regulation Clause 251(3)

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.

The Regulation Clause 251(4)

2.6 Report of a Divisional Representative to be tabled at Council Meeting

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

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

The Regulation Clause 244

2.7 Outstanding Resolutions

No debate is to be allowed on Outstanding Resolutions. Any changes to or debate on Outstanding Resolutions should only be by way of a Notice of Motion or a report to Council.

(Adopted by Council 4 August 2004)

2.8 What Constitutes a Decision of the Council?

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.

The Act Sec 371

2.8.1 Are council decisions affected when councillors change?

In legal terms, a local council is a body politic of the State with perpetual succession and the legal capacity and powers of an individual. This means that the council is legally separate from the councillors on it, and that council decisions are not affected by changes in its councillors.

The Act Sec 220

2.9 Recording of Meeting of Council or Committee Prohibited Without Permission

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

The Council or Committee may, by resolution, expel from the place where it is holding a meeting any person who uses a recording device in contravention of this Clause.

If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from, and, if necessary, restrain the person from re entering, that place.

In this Clause, recording device includes a video camera and any electronic device capable of recording speech.

The Regulation Clause 273

2.10 Mobile Phones

All mobile phones (including councillor's mobiles) are to be turned off before entering the chamber.

Council Resolution 17 November 2009

Councillor, Officer or Council provided tablet devices used in the conduct of the Council Business to access documents such as the Business Paper Reports are exempt from this requirement but should be set to silent mode. All other tablet devices are not to be used during the conduct of the Council meeting.

Adopted by Council November 2012

2.11 Public Gallery Etiquette

- All signs and masks be prohibited from the public gallery and Civic Centre.
- While Council acknowledges the democratic right to protest, a designated area outside the Civic Centre be established to allow citizens to neatly leave all signs and all masks before entering the Civic centre.
- A copy of the Code of Meeting Practice (being suitably bound) be placed alongside the business papers and/or any other public information as available to the general public and be left ad infinitum within the public gallery desk area and updated as changes occur to the Policy Document.

Council Resolution 17 November 2009

PART 3 – CONFLICTS OF INTERESTS (PECUNIARY AND NON-PECUNIARY)

3.1 Expressing an Interest in an Item

A Conflict Of Interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.

Code of Conduct Part 4

You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.

Code of Conduct Part 4

Any conflict of interests must be managed to uphold the probity of council decision-making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.

Code of Conduct Part 4

Private interests can be of two types: pecuniary or non-pecuniary.

Code of Conduct Part 4

3.1.1 What is a pecuniary interest?

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. (The Act Section 442)

Code of Conduct 4.5

A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (The Act Section 443)

Code of Conduct 4.6

Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:

- a) councillors and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (The Act Section 449)
- b) councillors and members of council committees disclose an interest and the nature of that interest at a meeting leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (The Act Section 451)
- c) designated persons immediately declare, in writing, any pecuniary interest. (The Act Section 459)

Code of Conduct 4.7

Designated persons are defined at section 441 of the Act, and include, but are not limited to, the general manager and other senior staff of the council.

Code of Conduct 4.8

Where you are a member of staff of council, other than a designated person (as defined by section 441), you must disclose in writing to your supervisor or the general manager, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.

Code of Conduct 4.9

3.1.2 What is a non-pecuniary conflict of interests?

Non-pecuniary interests are private or personal interests the council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

Code of Conduct 4.10

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

Code of Conduct 4.11

3.1.3 Managing non-pecuniary conflict of interests

Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.

Code of Conduct 4.12

If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 4.12 of the Code of Conduct.

Code of Conduct 4.13

How you manage a non-pecuniary conflict of interests will depend on whether or not it is significant.

Code of Conduct 4.14

As a general rule, a non-pecuniary conflict of interests will be significant where a matter does not raise a pecuniary interest but it involves:

- a) a relationship between a council official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household.
- b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
- c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.

Code of Conduct 4.15

If you are a council official, other than a member of staff of council, and you have disclosed that a significant non-pecuniary conflict of interests exists; you must manage it in one of two ways:

- a) remove the source of the conflict, by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another council official
- b) have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in section 451(2) of the Act apply

Code of Conduct 4.16

If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.

Code of Conduct 4.17

If you are a member of staff of council, the decision on which option should be taken to manage a non-pecuniary conflict of interests must be made in consultation with your manager.

Code of Conduct 4.18

Despite clause 4.16(b) of the Code of Conduct, a councillor who has disclosed that a significant non-pecuniary conflict of interests exists may participate in a decision to delegate council's decision-making role to council staff, or appoint another person or body to make the decision in accordance with the law. This applies whether or not council would be deprived of a quorum if one or more councillors were to manage their conflict of interests by not voting on a matter in accordance with clause 4.16(b) of the Code of Conduct.

Code of Conduct 4.19

When a Councillor expresses an interest in an Item on the Agenda and leaves the Chamber that Councillor be asked to return to the Chamber before Council/Committee proceeds to the next item of business.

(Adopted by Council 4 August 2004)

PART 4 – ATTENDANCE AT MEETINGS

4.1 Attendance at Meetings

Everyone is entitled to attend a meeting of Council and those of its Committees of which all the members are Councillors.

A Council must ensure that all meetings of the Council and of such Committees are open to the public.

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 by a resolution of the meeting or by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations clause 257 as detailed in section 8.4 of the Code of Meeting Practice.

The Act Sec 10

The meeting may be closed to the public as outlined in Section 7.1 of the Code of Meeting Practice.

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.

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.

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.

The Act Sec 376

The General Manager and Public Officer will sit in the same room as the councillors at a Council meeting.

4.1.1 Presence at Council Meetings

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

The Regulation Clause 235

If a councillor is absent from three consecutive ordinary meetings of the council without the leave of the council having been granted then the councillor automatically vacates office (section 234(1)(d) of the Act). Leave of absence can only be granted by council prior to the meeting or at the meeting concerned.

The acceptance of an apology is a positive acknowledgement of the courtesy of the person who tendered it. It does not amount to a grant of a leave of absence.

A leave of absence is formal permission granted by way of council resolution to a councillor excusing that councillor's attendance at a particular meeting. It is sought by way of application to the council.

4.1.2 Time Limits on Council Meetings

- (a) An Ordinary, Extraordinary or Special Meeting, which commences at 4.45pm, will be scheduled to conclude at 10.00pm (with a meal break between 6.30pm and 7.15pm).
- (b) If the business of the meeting is unfinished at 10.00pm, a resolution of the Council will be necessary to extend the time of the meeting.
- (c) If a resolution to extend the meeting is lost, the meeting will be adjourned to a date and time determined at the meeting.
- (d) If the meeting is adjourned to a different date or time, each Councillor and the public (where practicable) should be notified of the new date and time.
DLG practice note 16/2009 4.3.2
- (e) If, part way through a meeting, the meeting is adjourned (for example because a quorum ceases to be present or because of time constraints) the meeting will recommence at the time and place to which it is adjourned.
DLG practice note 16/2009 4.3.1
- (f) As an adjourned meeting is a continuation of the same meeting (not a new meeting), council does not need to issue a new agenda and business papers for the adjourned meeting. The agenda and business papers already issued would be the proper documents from which to work. Business not already on

the agenda could be dealt with only if the urgency procedure in clause 241(3) of the Regulation is followed.

If the adjourned meeting is held on the same date as another council meeting (for example, the next ordinary meeting), the meetings will be kept separate, with separate agendas and business papers.

DLG practice note 16/2009 4.3.3

4.1.3 What is the Quorum of a Meeting?

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

The Act Sec 368

4.1.4 What Happens when a Quorum is Not Present?

A meeting of the Council or Committee must be adjourned if a quorum is not present:

The Regulation Clause 233(1)

- (a) within half an hour after the time designated for the holding of the meeting; or
- (b) at any time during the meeting.

In either case, the meeting must be adjourned to a time, date and place fixed.

The Regulation Clause 233(2)

- (a) by the chairperson; or
- (b) failing that, by the General Manager.

The Regulation Clause 233(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.

4.2 How should Councillors be addressed at Council meetings?

Councillors are usually addressed as "Councillor [surname]", whether the Councillor is male or female; whether or not the Councillor has a title (for example the Honourable or the Reverend); and whether or not the Councillor has a qualification (for example, Doctor of Philosophy).

4.3 How should the Chairperson be addressed at Council meetings?

If the Chairperson is the Mayor they are usually addressed as 'Mr Mayor', or 'Madam Mayor'. When the Chairperson is not the Mayor, they would be addressed as 'Mr/Madam Chair' or 'Mr/Madam Chairperson'.

PART 5 – MOTIONS AND AMENDMENTS

5.1 Notice of Motion

Notice of motion must be provided to the General Manager, in the appropriate format, before 2.00pm on the Friday of the week preceding the Tuesday electronic upload of Council meeting agenda so as to be listed on the Orders of the Day Agenda.

(Adopted by Council 21 July 2009)

Notice of motion recorded in the Business Paper will comprise the wording of the proposed notice of motion only.

Background / supporting information to a proposed notice of motion will be included as an attachment to the business paper.

When putting forward a notice of motion, councillors need to balance their civic responsibility for representing the interests of the community with their obligation to use council's resources effectively and efficiently.

5.2 Motions in Writing

All motions put before Council which are not exactly as presented on the agenda are to be supplied, in writing, to the Chairperson before the mover may proceed.

(Adopted by Council 6 July 1994)

5.3 Notice of Motion - Absence of Mover

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

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

The Regulation Clause 245

5.4 Motions to be Seconded

A motion or an amendment cannot be debated unless or until it has been seconded, except as otherwise provided herein.

The Regulation Clause 246

The mover has the right to speak first, and a general 'right of reply' at the end of the debate. No new arguments or material should be argued during the 'right of reply'.

The Regulation Clause 250

The seconder of the motion speaks after the mover, but may choose to hold over their speaking rights until later in the debate. However a procedural motion could be passed, putting an end to debate before the seconder has spoken.

Councillors are asked to speak for and against the motion, usually in the order of one speaker for the motion and one speaker against the motion. Debate may end by completing the list of speakers who want to speak for or against the motion, the time allowed for debate finishing, the (limited) number of speakers allowed to speak on the motion having been reached, or where a procedural motion 'that the motion be put to the vote' has been successful.

At the end of the debate, the chairperson puts the motion to the meeting for vote. The chairperson will then declare the result of the vote. If passed by the majority, the motion becomes a formal resolution of council. The decision is final, unless it is immediately challenged by two (2) or more councillors who rise and demand a division on the motion

The Regulation Clause 251(3)

5.5 How should an amendment to a motion be worded?

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.

5.6 Amendments to Motions

An amendment to a motion requires a mover and a seconder to put it forward. The amendment must be dealt with before voting on the main motion takes place. Debate is allowed only in relation to the amendment and not the main motion — which is suspended while the amendment is considered.

The Regulation Clauses 246 and 247

If the amendment is passed, the motion is changed to include the amendment and this new motion is debated. If the amendment is not supported, the main motion stays in its original form and debate resumes.

There should only be one amendment to a motion before the council at any time. . If several amendments are proposed, each should be moved, seconded, debated and voted upon before the next. The amendments should be put forward and debated in the order in which they affect the original motion, not in the order in which they were put to the meeting.

The Regulation Clause 247

5.6.1 Alternate Motions

Alternate Motions must be supplied in writing to the Mayor/Chairperson. The General Manager must advise if the alternate motion can be implemented.

An *alternate* motion is a proposal, moved and seconded, that is an alternative to the officer's recommendation and put before all other motions on the item under consideration.

5.7 Can the chairperson rule an amendment to be new business and therefore out of order when discussing the current motion?

While clause 238(1) of the Regulation requires a chairperson to put to a council meeting any lawful motion brought before the meeting, there is no requirement covering an amendment to a motion. The chairperson can therefore rule an amendment to be new business and out of order.

Nevertheless, clause 248(1) of the Regulation allows a councillor, without notice, to move to disagree with the ruling of the chairperson on a point of order. 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. It is then a matter for the councillors to decide by majority vote whether to carry the motion of dissent.

The Regulation Clause 248(3)

5.8 Motions Put Without Formal 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.

5.9 Limitation as to Number of Speeches

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.

The Regulation Clause 250(1)

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.

The Regulation Clause 250(2)

A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time. However, the Chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

The Regulation Clause 250(3)

5.10 Debate Must Be Relevant To the Motion

Debate must always be relevant to the motion before the Chairperson, and, if not, the Chairperson must request the speaker to confine debate to the motion.

If after being requested to confine debate to the motion before the Chairperson, the speaker continues to debate irrelevant matters, the Chairperson may direct the speaker to not speak further in respect of the motion then before the Chairperson.

A speaker to whom a direction has been given must comply with that direction.

5.11 Questions may be put to councillors and council employees

A councillor may, through the chairperson, put a question to another councillor, and may, through the general manager, put a question to a council employee.

The Regulation Clause 249(1)

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.

The Regulation Clause 249(2)

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

The Regulation Clause 249(3)

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.

The Regulation Clause 249(4)

5.12 Motion Be Now Put

Despite Regulations Clause 250(1) & 250(2), if at least two (2) Councillors have spoken in favour of a motion or an amendment and at least two (2) Councillors have spoken against the motion or amendment, any Councillor may move that the question be now put.

The Regulation Clause 250(4)

The Chairperson must immediately put to the vote a motion that the question be now put without the motion being seconded and without debate.

The Regulation Clause 250(5)

If a motion that the question be now put is passed, the Chairperson must, after the mover of the motion has exercised his or her right of reply under Regulation Clause 250(1) immediately put the question to the vote without further debate.

The Regulation Clause 250(6)

If a motion that the question be now put is rejected, the Chairperson must resume the debate on the original motion or amendment.

The Regulation Clause 250(7)

Notwithstanding anything in this Code the Chairperson may not accept a motion that the motion be put while a Councillor is speaking in accordance with this Code, nor while a question, properly asked by a Councillor, awaits a response in accordance with a direction of the Chairperson.

Council Resolution 18 February 1998

5.13 Unacceptable Motions

The Chair may rule that a Motion or an amendment is out of order if, in the view of the Chair, the proposed motion:

- is vague and equivocal in its language;
- is the direct negative of or is inconsistent with a resolution just passed by the meeting;
- is an amendment which is a direct negative of the motion which it proposes to amend;
- proposes an action that is unlawful;
- is *ultra vires* in that it is outside the scope of the meeting;
- has defamatory statements contained in the resolution;
- is unnecessary in that it proposes a course of action or policy already resolved upon by the meeting; and
- is vexatious and is proposed solely as a way to impede the orderly transaction or business.

5.14 Motions of Dissent

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.

The Regulation Clause 248(1)

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

The Regulation Clause 248(2)

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.

The Regulation Clause 248(3)

5.15 Foreshadowing another Motion

It is possible to advise the council of an intention to put forward a motion that relates to a motion currently before the council. However, the chairperson cannot accept the new motion until the first motion is decided.

5.16 Obligations

Councillors have an obligation to consider issues consistently, fairly and promptly (Clause 6.5 Code of Conduct). All relevant facts known (or reasonably known) must be considered in terms of the merits of each issue. Irrelevant matters or circumstances must not influence decision-making.

PART 6 – RESCISSION MOTIONS

6.1 Rescinding or Altering Resolutions

A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with the Council's code of meeting practice.

If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

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.

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 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be.

If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within 3 months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.

A motion to which this section applies may be moved on the report of a Committee of the Council and any such report must be recorded in the minutes.

The provisions of this section concerning negated motions do not apply to motions of adjournment.

The Act Sec 372

PART 7 – CLOSED PARTS OF MEETINGS

7.1 Closure of Meetings to the Public (Confidential Session)

1. Council or such a Committee of which all the members are Councillors, may close to the public so much of its meeting as comprises, the discussion of any of the matters listed in subclause (2), or the receipt or discussion of any of the information as follows.

The Act Sec 10(A)

2. (a) personnel matters concerning particular individuals,

- (b) the personal hardship of any resident or ratepayer;
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom 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 the disclosure of which would prejudice the maintenance of the 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.

A Council, or a committee 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.

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

The Act Sec 10A

7.2 Information Relating to Proceedings at Closed Meetings Not To Be Disclosed

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

This Clause does not apply:

- (a) to the report of a Committee of the Council when presented to the Council; or
- (b) disclosure made in circumstances prescribed by the Regulations
- (c) any agenda resolution or recommendation of a meeting that a person is entitled to inspect in accordance with Section 12.

The Act Sec 664

PART 8 – ORDER AT MEETINGS

8.1 Questions of Order

Councillors must act honestly and reasonably in carrying out council functions and this is further reinforced through the Code of Conduct which provides guidance on acceptable and unacceptable conduct.

The Act Sections 439 and 440

You must not conduct yourself in carrying out your functions in a manner that is likely to bring the council or holders of civic office into disrepute. Specifically, you must not act in a way that:

- (a) contravenes the Act, associated regulations, council's relevant administrative requirements and policies
- (b) is detrimental to the pursuit of the charter of a council
- (c) is improper or unethical
- (d) is an abuse of power or otherwise amounts to misconduct
- (e) causes, comprises or involves intimidation, harassment or verbal abuse
- (f) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
- (g) causes, comprises or involves prejudice in the provision of a service to the community.

Code of Conduct 3.1

You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act.

The Act Sec 439/ Code of Conduct 3.2

You must treat others with respect at all times.

Code of Conduct 3.3

Councillors have a responsibility to behave professionally in and out of council meetings. Councillors should maintain good working relationships with each other and act in a manner appropriate to their civic status. This would include orderly behaviour and complying with rulings from the chairperson at council meetings. This Meeting Code and Council's Code of Conduct identify the standards and responsibilities imposed on councillors by the Act and Regulations.

Code of Conduct Part 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.

The Regulation Clause 255(1)

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 on the matter.

The Regulation Clause 255(2)

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.

The Regulation Clause 255(3)

The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

The Regulation Clause 255(4)

8.2 Points of Order

Where a Councillor has drawn to the attention of the Chair an alleged act of disorder, the Chair must rule on the question of order immediately after it is raised.

A point of order may refer to any procedural matter relating to the orderly conduct of the meeting and without limitation may include:

- Councillors speaking or whispering while another Councillor is addressing the meeting;
- verbal interjections;
- failure to observe proper meeting procedures as defined within this code;
- public discourtesy to fellow Councillors during the meeting;
- exceeding time limits without the agreement of the meeting;
- addressing the meeting without the permission of the Chair;
- any actions or comments that could be considered to be a breach of the Council's Code of Conduct.

8.3 Acts of Disorder

(1) A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a Committee of a Council:

- (a) contravenes the Act or any regulation in force under the Act; or
- (b) assaults or threatens to assault another Councillor or person present at the meeting; or
- (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or committee, or addresses or attempts to address the council or committee on such a motion, amendment or matter; or

(d) insults or makes personal reflections on or imputes improper motives to any other Councillor; or

(e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or Committee into contempt.

The Regulation Clause 256(1)

(2) The Chairperson may require a Councillor:

(a) to apologise without reservation for an act of disorder referred to in Clause 8.3.1.

(b) to withdraw a motion or an amendment referred to in Clause 8.3.1, and, where appropriate, to apologise without reservation; or

(c) to retract and apologise without reservation for an act of disorder referred to in Clause 8.3.1.

The Regulation Clause 256(2)

(3) The Council or a Committee of the Council may, by resolution, expel from a meeting a Councillor who fails to comply with a requirement made under sub-clause 8.3.1. The expulsion of a Councillor under this Regulation does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

The Regulation Clause 256(3)

8.4 How Disorder at a Meeting May Be Dealt With

If disorder occurs at a meeting of a Council, the Chairperson may adjourn the meeting for a period of not more than fifteen (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 Sub Clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors.

The Regulation Clause 257(1)

The Council may, by resolution, expel a member of the public from the Council meeting on the grounds that the member is engaging in or has, at the meeting, engaged in disorderly conduct.

The Regulation Clause 257(2)

A person who is expelled or removed from a Council Meeting shall vacate the premises where the meeting is being conducted.

Council Resolution 20 February 2002

8.5 Relationship between councillors and council staff

The Act makes the General Manager responsible for the efficient and effective operation of the council's organisation and for implementing decisions of the council (s.335 of the Act). The General Manager is, therefore, in charge of the council's management.

Councillors are required (as a group) to direct and control the council's affairs; allocate resources; and determine and review the council's policy and performance (s.232 of the Act). Councillors should not involve themselves in the day-to-day administration and operation of council. This is the responsibility of the General Manager.

Councillors and staff have a responsibility to behave professionally and maintain constructive working associations. This is based on the principle that all public officials have a duty to act with integrity, honesty, impartiality and in the public interest.

Councillors must not make personal attacks upon staff at meetings. If a councillor has a complaint about a member of staff that complaint should be addressed in writing to the General Manager. If the complaint is about the General Manager it should be addressed in writing to the Mayor.

PART 9 – COMMITTEES, THEIR MEMBERS AND FUNCTIONS

9.1 Committee of Council

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

The Act Sec 373

9.2 Committee of the Whole

During the course of a council meeting a council may resolve itself into the 'committee of the whole' under section 373 of the Act. That part of the council meeting then becomes a committee meeting. The only advantage of a council forming a committee of the whole is that by reason of clause 259 of the Regulation the limits on the number and duration of councillor speeches referred to in clause 250 of the Regulation do not apply.

If at the time council resolves itself into the "committee of the whole" the meeting was open to the public then the meeting will remain open to the public unless council resolves to exclude the public under section 10A of the Act.

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

The Regulation Clause 259(1)

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.

The Regulation Clause 259(2)

The Committee of the Whole may not pass a Council resolution. The Council must ensure that a report of the proceedings 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.

The Regulation Clause 259(3)

9.3 Council May Establish Committees

The Council may appoint or elect such Committees as it considers necessary.

A Committee is to consist of the Councillors.

The quorum for a meeting of such a Committee is to be as per item 4.1.3.

The Regulation Clause 260

9.4 Functions of Committees

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

The Regulation Clause 261

9.5 Notice of Committee Meetings to be Given

The General Manager of a Council must send to each Councillor, on the Wednesday before the 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.

However, notice of less than three (3) days may be given of a Committee meeting called in an emergency.

The Regulation Clause 262

9.6 Procedure in Committees

Each Committee of the Council may regulate its own procedure.

The Regulation Clause 265(1)

Without limiting Regulation Clause 265(1) a Committee of the 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.

The Regulation Clause 265(2)

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

The Regulation Clause 265(3)

9.7 Committees to Keep Minutes

Each Committee of a Council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular a Committee must ensure that the following matters are recorded in the Committee Minutes:

- (a) details of each motion moved at a meeting and of any amendments to it
- (b) the names of the mover and seconder of the motion or amendment
- (c) whether the motion or amendment is passed or lost.

The Regulation Clause 266(1)

As soon as the minutes of an earlier meeting of a Committee of the Council have been confirmed at a later meeting of the Committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.

The Regulation Clause 266(2)

9.8 Chairperson and Deputy Chairperson of Committees

The Chairperson of each Committee of the Council will be determined by Council.

The Regulation Clause 267

9.9 Absence from Committee Meetings

A member ceases to be a member of a Committee if the member:

- (a) has been absent from three (3) consecutive meetings of the Committee without having given reasons acceptable to the Committee for the member's absence; or
- (b) has been absent from at least half of the meetings of the Committee held during the immediately preceding year without having given to the Committee acceptable reasons for the member's absences.

This Regulation does not apply if all of the members of the Council are members of the Committee.

The Regulation Clause 268

9.10 Reports of Committees

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.

The Regulation Clause 269(1)

The recommendations of a Committee of the Council are, so far as adopted by the Council, resolutions of the Council.

The Regulation Clause 269(2)

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.
- The Regulation Clause 269(3)

9.11 Disorder in Committee Meetings

The provisions of this Code and of the Act and Regulations 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.

The Regulation Clause 270

9.12 Power to Remove Persons from Meeting After Expulsion Resolution

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

- (a) immediately after the Council has passed a resolution expelling the Councillor 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.

The Regulation Clause 258

9.13 Committee May Expel Certain Persons From Its Meetings

If a meeting or part of a meeting of a Committee of the Council is closed to the public in accordance with Section 10(2) of the Act, the Committee may, by resolution, expel from the place where the meeting is being held any person who is not a Councillor.

The Regulation Clause 271(1)

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 by the Council for the purpose, may remove the person from, and, if necessary, restrain the person from re-entering that place.

The Regulation Clause 271(2)

PART 10 - MINUTES

10.1 Minutes

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

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.

The Act Sec 375

10.2 Confirmation of Minutes

The motion proposing the adoption of the minutes, as an accurate statement of the business transacted at the previous meeting must be dealt with before proceeding to consider other items of business.

A motion to adopt the minutes must be proposed and seconded and may be subject to debate.

A debate on the motion to adopt the minutes of the previous meeting is restricted to their accuracy as a true record of the proceedings.

Minutes of a General Meeting of Council may be confirmed at an Extraordinary Meeting of the Council.

Minutes of an Extraordinary Meeting of Council may be confirmed at a General Meeting of the Council.

10.3 Certain Circumstances Do Not Invalidate Council Decisions

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

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

The Act Sec 374

10.4 Inspection of the Minutes of the Council or Committee

An inspection of the minutes of the Council or Committee of the Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes.

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.

The Regulation Clause 272

PART 11 – QUESTIONS ON NOTICE

11.1 Questions on Notice

Questions on Notice must be provided to the General Manager, in the appropriate format, before 2.00pm on the Friday of the week preceding the Tuesday electronic upload of Council meeting agenda so as to be listed on the Questions on Notice Agenda.

11.1.1 Limitations to Questions on Notice

Questions on Notice shall be limited to five (5) questions per Councillor per Council meeting and be limited to 100 words or less and be succinct and without argument in the format of the question.

Council Resolution 16 February 2010

If not dealt with by Council as a matter of urgency, in accordance with Section 1.3.1 of this Code, the General Manager is required to provide to the next Ordinary meeting a response to the question. If a high level of research is required to satisfy all aspects of the question the report is to indicate an approximate cost and resource requirements. Council is then to consider, if the brief response is adequate or if it is prepared to commit or reallocate resources to complete a detailed response.

For items deemed to be of high community interest, Councillors are encouraged to raise the matter directly with the General Manager or appropriate Director at the time of the concern.

Adopted by Council 16 February 2010

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

The Regulation Clause 249(4)

PART 12 - WORKSHOPS

12.1 Frequency

- a) Workshops will be conducted on the first and second Thursday of each month.
- b) A programmed Councillor Only discussion session is to be allocated following the conclusion of the Workshop session on the first Thursday of the month.

12.2 Request

That a:

- (a) Workshop for Councillors be determined by way of a majority of Councillors indicating their desire via an email proposal and acceptance."
- (b) Record of all requests for workshops to be reported to Council indicating those for and against.

12.3 Limitations

Council can hold a workshop, which is an informal gathering of councillors, council officers and invited participants to discuss issues, based on the provision of background information on the relevant issue.

A workshop shall not used to reach agreement and /or a (de-facto) decision made.

12.4 Conduct

Workshops will not be held more than twenty-one (21) days before the matter the subject of same, is considered by Council.

(Council Resolution 3 May 2000)

12.5 Attendance

Councillors, Council Officers and invited participants may attend workshops.

There is no obligation on Councillors to attend workshops.

12.6 Procedure

The meeting procedures in the Act and the Regulation apply only to meetings of the council and its committees made up of councillors only. As workshops are not meetings of the council or its committees, the meeting procedures in the Act and the Regulation do not apply.

The workshop may be chaired by the Mayor and/or General Manager or another senior officer.

12.7 Workshop documents

The non-disclosure provisions of Sections 664(1) and 664(2) of the Local Government Act 1993, apply to workshops, but as workshops cannot be closed under Section 10A of the Local Government Act 1993, the confidentiality provisions of Section 664(1A) and 664(1B) do not apply.

Section 664(1) states:

A person must not disclose any information obtained in connection with the administration or execution of the Local Government Act unless that disclosure is made:

- (a) with the consent of the person from whom the information was obtained, or*
- (b) in connection with the administration or execution of the Local Government Act*
- (c) for the purposes of any legal proceedings arising out of the Local Government Act or of any report of any such proceedings; or*
- (d) in accordance with a requirement imposed under the Ombudsman Act 1974 or the Freedom of Information Act 1989, or*
- (e) with other lawful excuse.*

Section 664(2) states:

A person acting in the administration or execution of the Local Government Act 1993, must not use either directly or indirectly, information acquired by that 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.

Any document produced in relation to a workshop would be a document of the council. This means that these documents could be inspected and copied in accordance with sections 12 to 12B of the Act or the provisions of the Freedom of Information Act 1989 subject to any exemptions or copyright restrictions. A person refused access to a document under the Freedom of Information Act 1989 can apply for a review of the determination by the NSW Administrative Decisions Tribunal.

PART 13 – COMMUNITY ACCESS

13.1 Community Access

1. Community Access is the public's opportunity to informally address Councillors on items for consideration of Council.
2. People who have been deemed a Difficult Person in accordance with one of the categories as defined in Council's Dealing with Difficult People Policy may be excluded from being eligible to address Council during Community Access.

3. A Community Access session will take place between 4.30pm and 5.30pm on the Thursday of the week preceding the Council Meeting and will be held in the Council Chambers, Murwillumbah.
4. The Procedure for the Community Access session will be as follows:
 - (a) To make an appointment please ring the Corporate Governance Unit on (02) 6670 2540. A time will be allocated for you to address Council. You will need to provide a basic outline of the matter you wish to raise in Community Access and you are invited to leave a contact telephone number and address should Councillors wish to follow matters through with you.
 - (b) Where the requests from an individual or group relates to a matter of complexity and community sensitivity the General Manager shall determine if the presentation would be better dealt with at a Workshop instead of Community Access.
 - (c) It is unacceptable for people in their address to Council or in their responses to questions to make allegations that any resident, member of Council staff, Councillor or other person has acted improperly with regard to their duties or obligations, or has acted in a way that would be unlawful.
 - (d) It is unacceptable for people in their address to Council or in their responses to questions to make demeaning comments.
 - (e) Any complaints or allegations regarding the conduct of Councillors, management and staff must be in writing and directed to the General Manager.
 - (f) Each speaker is allowed five (5) minutes to address Community Access. Additional presentation time may be approved by the General Manager at the time of booking, by request.
 - (g) Where a deputation is making a presentation a spokesperson is to be nominated to present the deputation and to address the Community Access meeting.
 - (h) At the end of five (5) minutes you will hear an electronic beeper. You will have to stop speaking. The Chairperson will ask if Councillors are prepared to extend your allowed time (to a maximum of a further two minutes) and a vote will be taken
 - (i) At the conclusion of your address Councillors will be invited to ask questions relating to that address. You may answer such questions but are unable to ask questions of Councillors and/or staff yourself. A summary or comment may be provided by the Chairperson, General Manager or senior staff, as appropriate.

- (j) The Community Access session is not a Council Meeting, thus no decisions can be made.
- (k) The Community Access session does not provide any protection from civil action arising from allegations or any libellous comments.

13.2 Can a councillor speak to the council as a resident or ratepayer in the public access section of a meeting?

Residents or ratepayers can speak to council if allowed under Council's Meeting Code or by the Chairperson of the meeting. Given the opportunities for a Councillor to raise matters at a meeting through notices of motion and questions, it would be unusual for a Meeting Code to allow a councillor to speak to the council from the public access section.

Councillors who aren't allowed to take part in a discussion because of a pecuniary interest cannot escape this by addressing the meeting as a 'resident' or 'ratepayer'. Section 451(2) of the Act states that a councillor must not be present at or in the sight of the meeting of council at any time during which the matter (for which the councillor has declared a pecuniary interest) is being considered, discussed or voted on. This has been interpreted as excluding councillors in both their official capacity and as a member of the public. Councillors should refer to Part 3 of this Code or Part 4 of the Code of Conduct for guidance.

Exclusion from speaking to a matter which is the subject of conflict goes beyond discussions on a formulated motion or resolution - see (former) Department of Local Government Circular to Councils No. 05/17 "Codes of Meeting Practice - Councillors Invited To Speak After Declaring A Pecuniary Interest In A Matter" available from www.dlg.nsw.gov.au.

Adopted by Council 16 February 2010

PART 14 – DEFINITIONS

14.1 Definitions

In this Code:

Councillor: includes an elected member of the Council;

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

Adopted by Council: An amendment or addition to the Code of Meeting Practice through a revised version usually placed on public exhibition for comment.

Chairperson:

- (a) in relation to a meeting of the 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 the Council - means the person presiding at the meeting as provided by Clause 267 of the Regulation;

Code of Conduct: has been developed to assist council officials to:

- understand the standards of conduct that are expected of them;
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence;
- act in a way that enhances public confidence in the integrity of local government, by utilising the values of respect, courtesy and equity.

Committee: in relation to the Council, means a Committee appointed or elected by the Council in accordance with Clause 260 of the Regulation or the Council when it has resolved into a Committee of the Whole;

Decision: a majority decision of the council or committee, sometimes termed a 'resolution'.

Disclosure of Interest: requirement that pecuniary and non-pecuniary interest of councillors, council delegates and staff involved in making decisions or giving advice on council matters are publicly recorded in accordance with the Code of Conduct.

Division: a specific recording of those councillors who vote for the motion and those who vote against it in the council minutes.

Meeting Procedures: the procedures as outlined in this Code, derived from the Division of Local Government Meeting Procedure Practice Note 16/2009, Code of Conduct, the Local Government Act 1993 and the Local Government (General) Regulation 2005.

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.

Points of Order: A point of order may refer to any procedural matter relating to the orderly conduct of the meeting and without limitation may include:

- Councillors speaking or whispering while another Councillor is addressing the meeting;
- verbal interjections;
- failure to observe proper meeting procedures as defined within this code;
- public discourtesy to fellow Councillors during the meeting;
- exceeding time limits without the agreement of the meeting;
- addressing the meeting without the permission of the Chair;
- any actions or comments that could be considered to be a breach of the Council's Code of Conduct.

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 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;

Resolution of Council: An amendment or addition to the Code of Meeting Practice as a result of a Council Resolution.

The Act: means the Local Government Act 1993.

The Regulation: means the Local Government (General) Regulation 2005.

Act and Regulation

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

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