

Richmond  
Valley  
Council



# **Code of Meeting Practice**

**Adopted by Council 19 November 2013**

## Table of Contents

INTRODUCTION .....	1
1. CALLING OF COUNCIL MEETINGS .....	2
1.1 Public Notice of Meetings .....	2
1.2 Notice of Meetings (Advertising) .....	2
1.3 How often does the Council Meet .....	3
1.4 Calling of Extraordinary Meetings on Request by Councillors .....	3
1.5 Notice of Meetings to Councillors .....	3
1.6 Agenda and Business Papers for Council Meetings .....	4
1.7 Agenda for Extraordinary Meetings .....	4
1.8 Minister to Convene Meetings in Certain Cases .....	5
1.9 When Does a Vacancy Occur in a Civic Office .....	5
2. CONDUCT OF COUNCIL MEETINGS .....	7
2.1 Presence at Council Meetings .....	7
2.2 What is the Quorum for a Meeting .....	7
2.3 What Happens When a Quorum is Not Present .....	7
2.4 Who Presides at Meetings of the Council .....	7
2.5 Councillor to be Elected to Preside at Certain Meetings .....	7
2.6 Chairperson to Have Precedence .....	8
2.7 Chairperson's Duty with Respect to Motions .....	8
2.8 Order of Business .....	9
2.9 Mayor's and Delegates' Reports .....	9
2.10 Mode of Addressing Council .....	10
2.11 Matters Determined Without Debate .....	10
2.12 Who is Entitled to Attend Meetings .....	10
2.13 Which Parts of a Meeting can be Closed to the Public .....	11
2.14 Further Limitations Relating to Closure of Parts of Meetings to Public ....	12
2.15 Notice of Likelihood of Closure Not Required in Urgent Cases .....	13
2.16 Grounds for Closing Part of Meeting to be Specified .....	13
2.17 Procedure for the Public to Address Council on whether part of a Meeting should be Closed .....	13
2.18 Giving Notice of Business .....	14
2.19 Notices of Motion .....	15
2.20 Official Minutes – Mayoral Minutes .....	15
2.21 Matters to be Included in Minutes Of Council Meeting .....	16
2.22 Report of a Departmental Representative to be Tabled at Council Meeting .....	16
2.23 Notice of Motion – Absence of Mover .....	16
2.24 Motions to be Seconded .....	16
2.25 Unopposed Notices of Motion .....	17
2.26 How Subsequent Amendments may be Moved .....	17
2.27 Points of Order .....	17
2.28 Motions of Dissent .....	18
2.29 Questions may be Put to Councillors and Council Employees .....	18
2.30 Limitation as to Number of Speeches .....	18
2.31 What are the Voting Entitlements of Councillors .....	20
2.32 Voting at Council Meetings .....	20

2.33	Representation by Members of the Public – Closure of Part of Meeting.....	21
2.34	Resolutions Passed at Closed Meetings to be made Public.....	21
2.35	What Constitutes a Decision of the Council.....	21
2.36	Rescinding or Altering Resolutions.....	21
2.37	Committee of Council.....	22
2.38	Attendance of General Manager at Meetings.....	22
2.39	Reports of Committees.....	23
2.40	Certain Circumstances do not Invalidate Council Decisions.....	23
2.41	Late Correspondence.....	24
2.42	Public Access to Correspondence and Reports.....	24
2.43	Adjournment of Council Meetings.....	24
2.44	Public Access and Question Time.....	24
3.	QUESTIONS.....	27
3.1	Questions on Notice.....	27
3.2	Questions For Next Meeting (in writing).....	27
4.	ORDER AND DISORDER AT COUNCIL MEETINGS.....	29
4.1	Questions of Order.....	29
4.2	Acts of Disorder.....	29
4.3	How Disorder at a Meeting may be Dealt With.....	30
4.4	Power to Remove Persons from Meeting after Expulsion.....	30
4.5	Mayor Authorised to Exercise Power of Expulsion.....	30
5.	MINUTES OF COUNCIL MEETINGS.....	31
5.1	Minutes.....	31
5.2	Recording of Voting on Planning Matters.....	31
6.	CALLING OF COMMITTEE MEETINGS.....	32
6.1	Committee of the Whole.....	32
6.2	Extension and Restriction on Number and Duration of Speeches in Committee of the Whole Meetings.....	32
6.3	Council may Establish Committees.....	32
6.4	Sunset Committees.....	32
6.5	Functions of Committees.....	33
6.6	General Power of the Council to Delegate.....	33
6.7	Delegated Authority of Committees.....	34
6.8	Notice of Committee Meetings to be Given.....	34
6.9	Absence from Committee Meetings.....	35
6.10	Alteration of Meeting Times.....	35
7.	CONDUCT OF COMMITTEE MEETINGS.....	36
7.1	Procedure in Committees.....	36
7.2	Committee Chairperson to have Casting Vote in limited Circumstances.....	36
7.3	Which Parts of a Meeting can be Closed to the Public.....	36
7.4	Further Limitations Relating to Closure of Parts of Meetings.....	37
7.5	Notice of Likelihood of Closure not required in Urgent Cases.....	38
7.6	Grounds for Closing Part of Meeting to be Specified.....	38
7.7	Procedure for the Public to Address Council on whether part of a Meeting should be Closed.....	39

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7.8	Representation by Members of the Public - Closure of Part of Meeting.....	40
7.9	Chairperson and Deputy Chairperson of Committees .....	40
7.10	Attendance of General Manager at Meetings .....	40
7.11	A Committee can refer a Matter to Full Council .....	41
7.12	Certain Circumstances do not invalidate Council Decisions .....	41
7.13	Representations to Committee Meetings by the Public .....	41
7.14	Public Access to Correspondence and Reports .....	42
8.	DISORDER AT COMMITTEE MEETINGS.....	43
8.1	Disorder in Committee Meetings.....	43
8.2	Certain Persons may be Expelled from Council Committee Meetings.....	43
8.3	Chairperson Authorised to Exercise Power of Expulsion.....	43
9.	MINUTES OF COMMITTEE MEETINGS .....	44
9.1	Committees to Keep Minutes.....	44
9.2	Recording of Voting on Planning Matters .....	44
10.	DECLARATIONS OF INTEREST .....	45
10.1	Disclosure and Presence in Meetings.....	45
10.2	Disclosures to be Recorded.....	46
10.3	General Disclosure .....	46
10.4	Disclosure by Adviser .....	46
10.5	Circumstances in which Sections 451 and 456 are not breached .....	46
10.6	Powers of Minister in Relation to Meetings.....	46
11.	MISCELLANEOUS .....	47
11.1	Disclosure and Misuse of Information.....	47
11.2	Disclosure and Misuse of Information – Prescribed Circumstances .....	48
11.3	Tape Recordings of Meetings of Council or Committee Prohibited Without Permission.....	48
11.4	Recording Meetings of Council.....	48
11.5	Petitions.....	49
11.6	Protocols of Informal Workshops or Information/Explanatory Sessions.....	49

## **INTRODUCTION**

This Code of Meeting Practice has been prepared in accordance with the provisions of the Local Government Act, 1993. All Council and standing committee meetings are required to be conducted in accordance with the Code of Meeting Practice.

The Code includes all of the provisions of the Local Government Act, 1993 and the Local Government (General) Regulation, 2005 which relate to Council and Committee Meeting procedures. It also incorporates the Policies and Safeguards of Council which relate to meeting procedures.

Further information on meeting procedures at Richmond Council can be obtained by contacting Council's Governance Section on 6660 0300.

*Notes in the Code of Meeting Practice are explanatory notes only and do not form part of the Code of Meeting Practice. The notes are provided to assist with the understanding of the Code of Meeting Practice.*

This Code of Meeting Practice was adopted by Council on 19 November 2013.

## **1. CALLING OF COUNCIL MEETINGS**

### **1.1 Public Notice of Meetings**

- 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 paper (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. **[ACT, SECTION 9]**

### **1.2 Notice of Meetings (Advertising)**

- 1) This clause prescribes the manner in which the requirements outlined in Section 9(1) of the Act are to be complied with.
- 2) A notice of a meeting of a council or of a committee must be published in a newspaper circulating in the area before the meeting takes place.
- 3) The notice must specify the time and place of the meeting.
- 4) Notice of more than one meeting may be given in the same notice.
- 5) This clause does not apply to an extraordinary meeting of a council or committee. **[REGULATION CLAUSE 232]**

### **1.3 How often does the Council Meet**

The council is required to meet at least 10 times each year, each time in a different month. **[ACT SECTION 365]**

***Note:** Council's current meetings' cycle is:*

**COUNCIL**

*Meets each third Tuesday in the month at 5.00pm in the Council Chambers.*

**COMMITTEES**

*Strategic Finance Committee meets when called at 5.00pm on the first Tuesday in the month in the Council Chambers.*

**CHRISTMAS/NEW YEAR BREAK**

*Council does not normally conduct an Ordinary Meeting in January.*

### **1.4 Calling of Extraordinary Meetings on Request by Councillors**

- 1) If the mayor receives a request in writing signed by at least 2 councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable but in any event within 14 days after receipt of the request. **[ACT SECTION 366]**
- 2) The Mayor and/or General Manager are authorised to call Extraordinary Meetings in an emergency with the minimum time for the giving of notice for such Meetings being not less than twenty four (24) hours.

### **1.5 Notice of Meetings to Councillors**

- 1) The general manager of a council must send to each councillor, at least 3 days before each meeting of the council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.
- 2) Notice of less than 3 days may be given of an extraordinary meeting called in an emergency.
- 3) A notice under this section and the agenda for, and the business paper 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. **[ACT SECTION 367]**

## 1.6 Agenda and Business Papers for Council Meetings

- 1) The general manager must ensure that the agenda for a meeting of the Council states:
  - a) all matters to be dealt with arising out of the proceedings of former meetings of the Council, and
  - b) if the Mayor is the chairperson - any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - c) subject to subclause (2), any business of which due notice has been given.
- 2) The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is (or the implementation of the business would be) unlawful. The general manager must report (without giving details of the item of business) any such exclusion to the next meeting of the council.
- 3) The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 4) The general manager must ensure that the details of any item of business to which section 9 (2A) of the Act applies are included in a business paper for the meeting concerned.
- 5) Nothing in this clause limits the powers of the chairperson under Clause 243 (of the Regulation). **[REGULATION CLAUSE 240]**

**Note:**

*Business Papers for Ordinary Council Meetings are prepared on the Thursday preceding the Tuesday meeting.*

## 1.7 Agenda for Extraordinary Meetings

- 1) The general manager must ensure that the agenda for an extraordinary meeting of a council deals only with the matters stated in the notice of the meeting.
- 2) Despite subclause (1), business may be transacted at an extraordinary meeting of a council even though due notice of the business has not been given to the councillors. However, this can happen only if:
  - a) a motion is passed to have the business transacted at the meeting, and



- b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

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

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

## **1.8 Minister to Convene Meetings in Certain Cases**

- 1) Whenever an area is constituted or reconstituted, the Minister is required:
  - a) to convene the first meeting of the Council of the area, and
  - b) to nominate the business to be transacted at the meeting, and
  - c) to give the councillors notice of the meeting.
- 2) If there is no quorum at that meeting, the Minister may convene meetings in the same manner until a quorum is present.
- 3) The Council must transact the business nominated by the Minister for a meeting convened under this clause. **[REGULATION CLAUSE 234]**

## **1.9 When Does a Vacancy Occur in a Civic Office**

- 1) A civic office becomes vacant if the holder:
  - a) dies; or
  - b) resigns the office by writing addressed to the general manager; or
  - c) is disqualified from holding civic office; or
  - d) is absent from 3 consecutive ordinary meetings of the council (unless the holder is absent because he or she has been suspended from office under section 482 or 482A) without:
    - i) prior leave of the council, or
    - ii) leave granted by the council at any of the meetings concerned, or
  - e) becomes bankrupt, applies to take benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
  - f) becomes a mentally incapacitated person; or
  - g) is dismissed from civic office; or
  - h) ceases to hold office for any other reason.

**Note:** See Section 275 of the Local Government Act for the circumstances in which a person is disqualified from holding civic office.

- 2) For the purpose of subsection (1)(d) a councillor applying for leave of absence from a meeting of a council does not need to make application in person and the council may grant such leave in the absence of the councillor. **[ACT SECTION 234]**
- 3) If the holder of a civic office attends a council meeting (whether or not an ordinary meeting) despite having been granted leave of absence, the leave of absence is taken to have been rescinded as regards any future council meeting.
- 4) Subsection (3) does not prevent the council from granting further leave of absence in respect of any future council meeting.

## **2. CONDUCT OF COUNCIL MEETINGS**

### **2.1 Presence at Council Meetings**

A Councillor cannot participate in a meeting of the council unless personally present at the meeting. **[REGULATION CLAUSE 235]**

### **2.2 What is the Quorum for 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. **[ACT SECTION 368]**

### **2.3 What Happens When a Quorum is Not Present**

- 1) A meeting of a council must be adjourned if a quorum is not present:
  - a) within half an hour after the time designated for the holding of the meeting, or
  - b) at any time during the meeting.
- 2) In either case, the meeting must be adjourned to a time, date and place fixed:
  - a) by the chairperson, or
  - b) in his or her absence - by the majority of the councillors present, or
  - c) failing that, by the general manager.
- 3) The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present. **[REGULATION CLAUSE 233]**

### **2.4 Who Presides at Meetings of the Council**

- 1) 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.
- 2) 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. **[ACT SECTION 369]**

### **2.5 Councillor to be Elected to Preside at Certain Meetings**

- 1) If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

**Note:** Section 364(2) of the Act provides for a councillor to be elected to chair a meeting of a council when the mayor and deputy mayor are absent.

- 2) The election must be conducted:
  - a) by the general manager or, in his or her absence, an employee of the council designated by the general manager to conduct the election, or
  - b) if neither of them is present at the meeting or there is no general manager or designated employee - by the person who called the meeting or a person acting on his or her behalf.
- 3) If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- 4) For the purposes of sub-clause (3), the person conducting the election must:
  - a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips; and
  - b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 5) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson. **[REGULATION CLAUSE 236]**

## **2.6 Chairperson to Have Precedence**

When the chairperson rises during a meeting of the 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. **[REGULATION CLAUSE 237]**

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

- 1) It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 2) The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- 3) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected. **[REGULATION CLAUSE 238]**

## 2.8 Order of Business

- 1) At a meeting of a council (other than an extraordinary meeting), the general order of business is (except as provided by this Regulation) as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix the general order of business) as fixed by resolution of the council.
- 2) The order of business fixed under Sub-clause (1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.
- 3) Despite Clause 250 (of the Regulation), only the mover of a motion referred to in sub-clause (2) may speak to the motion before it is put.  
**[REGULATION CLAUSE 239]**

**Note:**

*At a meeting of Richmond Valley Council (other than an extraordinary meeting), the general order of business is (except as provided by the Regulation) as follows:*

1. *Acknowledgement of Country*
2. *Prayer*
3. *Public Access and Question Time*
4. *Apologies*
5. *Mayoral Minute(s)*
6. *Confirmation of Minutes*
7. *Matters Arising out of the Minutes*
8. *Declaration of Interests*
9. *Petitions*
10. *Notices of Motion*
11. *Mayor's Report*
12. *Delegates' Reports*
13. *Matters Determined Without Debate*
14. *Matters for Determination*
15. *Matters for Information*
16. *Questions on Notice*
17. *Questions for Next Meeting (in writing)*
18. *Matters Referred to Closed Council*
19. *Resolutions of Closed Council*

## 2.9 Mayor's and Delegates' Reports

Reports are to be provided in writing by the Mayor and Delegates (preferably for dispatch with the meeting agenda). The delegates' reports are to relate to attendances the delegates undertake on behalf of Council and should include the following:

- a) Date, Location and Subject Matter of Attendance
- b) Precis/Summary of issues discussed/considered
- c) Outcomes and/or actions required from attendance

## **2.10 Mode of Addressing Council**

A member shall on all occasions when in the Council address and speak of other members by their official designations as Mayor, Chairman or Councillor as the case may be.

For compliance with the recording system installed in the Council Chambers (Administration Office Casino), the moving and seconding of motions should be undertaken by voice in conjunction with use of the microphone indicator. Councillors wishing to speak on items are required to utilise the microphone indicator.

## **2.11 Matters Determined Without Debate**

In order to assist Council Meetings to operate smoothly and to avoid undue delays where Councillors agree with Officers' recommendations, items not requiring discussion by Councillors may be adopted 'en globo'. Council will determine "Matters to be Determined without Debate" at the respective Meeting. The process will be undertaken by each councillor indicating to the Meeting which items that they wish to debate or question, i.e. that the report recommendation is not agreed with and needs to be debated or they wish to question the report or recommendation.

**Note:** This will not apply to Planning Decision matters which will need to be debated.

## **2.12 Who is Entitled to Attend Meetings**

- 1) Except as provided by this Part (Chapter 4 Part 1 Local Government Act)
  - a) Everyone is entitled to attend a meeting of the council and those of its committees of which all the members are councillors, and
  - b) A council must ensure that all meetings of the council and of such committees are open to the public.
- 2) However, a person (whether a councillor or another person) is not entitled to be present at a meeting of the council or of such a committee if expelled from the meeting:
  - a) by a resolution of the meeting, or
  - b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.
- 3) A person may be expelled from a meeting only on the grounds specified in, or in the circumstances prescribed by, the regulations. **[ACT SECTION 10]**

## 2.13 Which Parts of a Meeting can be Closed to the Public

- 1) A council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises:
  - a) the discussion of any of the matters listed in subclause (2), or
  - b) the receipt or discussion of any of the information so listed.
- 2) The matters and information are the following:
  - a) personnel matters concerning particular individuals (other than councillors),
  - b) the 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.
- 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 to the public, as to whether that part of the meeting should be closed. **[ACT SECTION 10A]**

## 2.14 Further Limitations Relating to Closure of Parts of Meetings to Public

- 1) A meeting is not to remain closed during the discussion of anything referred to in section 10A (2):
  - a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
  - b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret - unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.
- 2) A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A (2) (g) unless the advice concerns legal matters that:
  - a) are substantial issues relating to a matter in which the council or committee is involved, and
  - b) are clearly identified in the advice, and
  - c) are fully discussed in that advice.
- 3) If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A (2)).
- 4) For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
  - a) a person may misinterpret or misunderstand the discussion, or
  - b) the discussion of the matter may:
    - i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
    - ii) cause a loss of confidence in the council or committee

**Note.** Subsection (4) is in similar terms to section 13 of the Government Information (Public Access) Act 2009.
- 5) In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must have regard to any relevant guidelines issued by the Director-General. **[ACT SECTION 10B]**



## **2.15 Notice of Likelihood of Closure Not Required in Urgent Cases**

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

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

## **2.16 Grounds for Closing Part of Meeting to be Specified**

- 1) The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.
- 2) The grounds must specify the following:
  - a) the relevant provision of section 10A (2),
  - b) the matter that is to be discussed during the closed part of the meeting,
  - c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest. **[ACT SECTION 10D]**

## **2.17 Procedure for the Public to Address Council on whether part of a Meeting should be Closed**

Members of the public may make representation at Council Meetings before a part of the meeting is closed to the public, as to whether that part of the meeting should be closed to the press and public.

Subject to Council formally resolving to close part of a meeting, the procedure to consider representations shall be:

- 1) Immediately after a motion to close part of a meeting to the public has been moved and seconded, the chairperson will ask the General Manager if there are any written submissions from the public on the proposed closure of the meeting.

- 2) The General Manager will read out any written representations.
- 3) The chairperson will ask if any persons wish to make verbal representations in relation to why the meeting should not be closed to the public.
- 4) Debate on the motion will be suspended to allow the public to make such representations.
- 5) An opportunity to speak will be given to each person who wishes to comment, chosen in random order by the Chairman. In addition, the Chairman may choose to request representative persons chosen by the public gallery, speaking for or against the motion.
- 6) Each person addressing the Council will be allowed to speak for two (2) minutes.
- 7) The Council will then consider all representations made, including those received before the meeting, when deciding whether to close part of the meeting to the public.
- 8) Council to vote on the motion to close the meeting.

**Note:** Maximum of ten (10) minutes per item allowed, subject to the Chairman having the discretion to increase the period to thirty (30) minutes per item.

## **2.18 Giving Notice of Business**

- 1) Council must not transact business at a meeting of the Council:
  - a) unless a Councillor has given notice of the business in writing within such time before the meeting as is fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that time) as is fixed by resolution of the council, and
  - b) unless notice of the business has been sent to the councillors in accordance with Section 367 of the Act.
- 2) Subclause (1) does not apply to the consideration of business at a meeting if the business:
  - a) is already before, or directly relates to a matter that is already before the Council, or
  - b) is the election of a chairperson to preside at the meeting as provided by Clause 236(1) (of the Regulation); or
  - c) is a matter or topic to be put to the meeting by the chairperson in accordance with Clause 243 (of the Regulation); or
  - d) is a motion for the adoption of recommendations of a committee of the council.

- 3) Despite subclause (1), business may be transacted at a meeting of the council even though due notice of the business has not been given to the councillors. However, this can happen only if:
  - a) a motion is passed to have the business transacted at the meeting, and
  - b) the business proposed to be brought forward is ruled by the chairperson to be of great urgency.

Such a motion can be moved without notice.

- 4) Despite clause 250 (of the Regulation), only the mover of a motion referred to in subclause (3) can speak to the motion before it is put. **[REGULATION CLAUSE 241]**

## **2.19 Notices of Motion**

- 1) Notices of Motion must be submitted to Council's Governance Section by 4.30pm on the Monday of the week preceding the Council meeting.
- 2) Amendments to Notices of Motion that are consistent with the intent of the terms of the motion are permitted, provided such amendments have the agreement of the Mover and Seconder.
- 3) Those Councillors that have submitted a Notice of Motion that are present at a Council Meeting may withdraw the Notice of Motion from consideration at the Council Meeting.
- 4) If any Councillor whose name is included as a Councillor submitting the Notice of Motion is present at the Council Meeting and does not agree to withdrawing the Notice of Motion, the Notice of Motion is to be considered at the meeting. **[POLICY]**

## **2.20 Official Minutes – Mayoral Minutes**

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

- 4) Amendments to Mayoral Minutes that are consistent with the intent of the terms of the Minute are permitted, provided such amendments have the agreement of the Mayor.

## **2.21 Matters to be Included in Minutes Of Council Meeting**

The general manager must ensure that the following matters are recorded in the council's minutes:

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

**Note:** Section 375 (1) of the Act requires a council to ensure that full and accurate minutes are kept of the proceedings of a meeting of the council (other provisions of this Regulation and of the Act require particular matters to be recorded in a Council's minutes). **[REGULATION CLAUSE 254]**

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

When a report of a Departmental 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. **[REGULATION CLAUSE 244]**

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

In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:

- a) any other councillor may move the motion at the meeting, or
- b) the chairperson may defer the motion until the next meeting of the council at which the motion can be considered. **[REGULATION CLAUSE 245]**

## **2.24 Motions to be Seconded**

A motion or an amendment cannot be debated unless or until it has been seconded. This clause is subject to Clauses 243(2) and 250(5) (of the Regulation). **[REGULATION CLAUSE 246]**

## **2.25 Unopposed Notices of Motion**

The Chairperson may call over the Notices of Motion on the business paper, in the order in which they appear thereon, and if objection be not taken to a motion being taken as a formal motion may, without discussion, put the motion to the vote.

## **2.26 How Subsequent Amendments may be Moved**

If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before the council at any one time. **[REGULATION CLAUSE 247]**

## **2.27 Points of Order**

Any Councillor may at any time rise and address the chair on a point of order, but must at once:

- 1) state the point of order, and
- 2) the reason for the point of order.

A point of order can be taken for any irregularity in procedure, for example:

- 1) a quorum is not present, or
- 2) the motion before the meeting lies outside the scope of the subject of debate, or
- 3) there is a failure to comply with Council's "Code of Meeting Practice", or
- 4) the speakers remarks are irrelevant to the motion, or
- 5) the speakers remarks involve tedious repetition, or
- 6) insulting or abusive language has been used.

Contradictions, personal explanations and statements of fact and/or opinion dealing with the subject are NOT valid points of order.

The point of order must be taken immediately the breach occurs and cannot be taken at any other time. A point of order takes precedence of all other business including procedural motions except for a call for a quorum.

The expression "to move a point of order" is not correct. The appropriate expression is "to take a point of order."

The Chairperson should rule immediately on the point of order but may, before giving a ruling, give an opportunity to the speaker to explain.

The Chairperson's decision on a point of order should be treated by the meeting as final and should not be discussed.

## **2.28 Motions of Dissent**

- 1) A councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 2) If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 3) Despite clause 250 (of the Regulation), 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. **[REGULATION CLAUSE 248]**

## **2.29 Questions may be Put to Councillors and Council Employees**

- 1) A Councillor:
  - a) may, through the chairperson, put a question to another councillor, and
  - b) may, through the general manager, put a question to a council employee.
- 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.
- 3) The councillor must put every such question directly, succinctly and without argument.
- 4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a councillor or council employee under this clause. **[REGULATION CLAUSE 249]**

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

- 1) A councillor who, during a debate at a meeting of the 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.
- 2) A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

- 3) A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time.

However, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than 5 minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

- 4) Despite subclauses (1) and (2), a councillor may move that a motion or an amendment be now put:
- a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
  - b) if at least 2 councillors have spoken in favour of the motion or amendment and at least 2 councillors have spoken against it.
- 5) The chairperson must immediately put to the vote, without debate, a motion moved under subclause (4). A seconder is not required for such a motion.
- 6) If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised his or her right of reply under subclause (1).
- 7) If a motion that the original motion or an amendment be now put is rejected, the chairperson must allow the debate on the original motion or the amendment to be resumed. **[REGULATION CLAUSE 250]**
- 8) Votes of Councillors will be recorded in the minutes for each decision of Council.

**Note:**

*In order to expedite the business of this Council, the following Rules of Debate shall be adopted as Standing Orders, viz:*

- a) *No more than two Councillors should speak in succession on one side, either for or against the question before the Council, and if, at the conclusion of the second speaker's remarks, no member rises to speak on the other side, the motion or amendment shall be put to the meeting after the mover has replied.*
- b) *Any Councillor proposing or seconding a motion shall have the right to speak once at any time during the debate without having to specifically reserve the right to speak later in the debate in preference to when moving or seconding the motion or amendment.*
- c) *No discussion shall be permitted on any matter before the Council (other than a question or personal explanation) except in the proposing, seconding, supporting or opposing a motion.*

**2.31 What are the Voting Entitlements of Councillors**

- 1) Each councillor is entitled to one vote.
- 2) However, the person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote. **[ACT SECTION 370]**

**2.32 Voting at Council Meetings**

- 1) 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.
- 2) If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.
- 3) The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than 2 councillors rise and demand a division.
- 4) When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the council's minutes.



- 5) Voting at a council meeting, including voting in an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

**Note:** Part 11 of the Regulation provides that a council is to resolve whether an election by the councillors for mayor or deputy mayor is to be by preferential ballot, ordinary ballot or open voting (clause 394 and clause 3 of Schedule 7). Clause 3 of Schedule 7 also makes it clear that ballot has its normal meaning of secret ballot. **[REGULATION CLAUSE 251]**

### **2.33 Representation by Members of the Public – Closure of Part of Meeting**

- 1) A representation at a council meeting by a member of the public as to whether a part of the meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.
- 2) That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings. **[REGULATION CLAUSE 252]**

### **2.34 Resolutions Passed at Closed Meetings to be made Public**

If a council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting or part of the meeting has ended. **[REGULATION CLAUSE 253]**

### **2.35 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. **[ACT SECTION 371]**

### **2.36 Rescinding or Altering Resolutions**

- 1) A resolution passed by a 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, if applicable, the council's code of meeting practice.
- 2) If notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

- 3) If a motion has been 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.
- 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 3 councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- 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 3 months. This subsection may not be evaded by substituting a motion differently worded, but in principle the same.
- 6) A motion to which this section applies may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.
- 7) The provisions of this section concerning negated motions do not apply to motions of adjournment. **[ACT SECTION 372]**
- 8) A notice of motion to rescind a resolution to prevent action proceeding on the resolution, must be given verbally to the Chairman prior to the closure of the meeting at which the resolution is carried.
- 9) If a Notice of Motion to rescind a resolution, other than a resolution relating to a Development Application, is given within 15 minutes after the close of a meeting at which the resolution is carried, the resolution will not be carried into effect until the motion of rescission has been dealt with.
- 10) The formal written rescission motion signed by three councillors is to be presented to the General Manager within two working days of the closure of the meeting to prevent action on the resolution prior to reconsideration of the rescission motion.

### **2.37 Committee of Council**

A council may resolve itself into a committee to consider any matter before the Council. **[ACT SECTION 373]**

### **2.38 Attendance of General Manager at Meetings**

- 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.

- 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.
- 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. **[ACT SECTION 376]**

### **2.39 Reports of Committees**

- 1) If in a report of a committee of the council distinct recommendations are made, the decision of the council may be made separately on each recommendation.
- 2) The recommendations of a committee of the council are, so far as adopted by the council, resolutions of the council.
- 3) If a committee of 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. **[REGULATION CLAUSE 269]**

### **2.40 Certain Circumstances do not Invalidate Council Decisions**

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

- a) a vacancy in a civic office; or
- b) a failure to give notice of the meeting to any councillor or committee member; or
- c) any defect in the election or appointment of a councillor or committee member; or
- d) a failure of a councillor or a committee member to disclose a pecuniary interest, 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. **[ACT SECTION 374]**

## **2.41 Late Correspondence**

That the deadline be 4.30 p.m. seven (7) days prior to a scheduled Council Meeting to allow ample time for staff to digest and comment, if appropriate, on the contents of the late correspondence. Items received after that time will only be included on the agenda at the discretion of the General Manager or Mayor.

## **2.42 Public Access to Correspondence and Reports**

- 1) A council and a committee of which all the members are councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- 2) This section does not apply if the correspondence or reports:
  - a) relate to a matter that was received or discussed; or
  - b) were laid on the table at, or submitted to, the meeting,when the meeting was closed to the public.
- 3) This section does not apply if 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. **[ACT SECTION 11]**

## **2.43 Adjournment of Council Meetings**

That Ordinary Meetings of Council shall adjourn at the discretion of the chairman.

## **2.44 Public Access and Question Time**

The Council Meeting Business Paper will include a section called "Public Access and Question Time".

The procedure for the conduct of the **Public Access Sessions** will be as follows:

- 1) The Public Access Sessions will be held in conjunction with Ordinary Council Meetings on agenda items only.
- 2) The Public Access Sessions will be conducted at the commencement of the meeting on the scheduled days or during meeting time at the discretion of the Mayor/General Manager.

- 3) A time limit of five (5) minutes per address will be applied with a maximum of six (6) time slots allocated at any one session. Each time slot shall be for one (1) item on the agenda.
- 4) Prior appointment for addressing Council must be made through Council's Governance Section with advice as to agenda item. Applications for allocation of access must be made by 9.30 a.m. on Monday prior to the scheduled meeting with details to be provided to Councillors by midday on the same day.
- 5) Council's response to the address (if any) will not necessarily be given at the time of the address.
- 6) At all times during the address, participants will respect the right of the Chairperson to terminate the session.
- 7) Councillors will have the right to question the speaker on the topic outside the presentation time.
- 8) Applications for public access made by individuals, on behalf of an organisation, may be asked to provide proof that they have the organisation's authority to address Council on the organisation's behalf.

The procedure for the conduct of the **Question Time Sessions** will be as follows:

- 1) Question Time Sessions will be held in conjunction with Ordinary Council Meetings on any items of interest to the community.
- 2) The Question Time Sessions will be conducted at the commencement of meeting on the scheduled days or during meeting time at the discretion of the Mayor/General Manager,
- 3) A time limit of two (2) minutes per question (i.e. for the putting of the question) will be applied with a maximum of five (5) time slots at any one session. The process is for a question to be asked not for making a statement.
- 4) Prior appointment for Question Time must be made through Council's Governance Section (with the written question). Applications for allocation of question time must be made by 9.30 a.m. on Monday prior to the scheduled meeting with details to be provided to Councillors by midday on the same day.
- 5) Council's response to the question (if any) will not necessarily be given at the time of the question. Such response time is not part of the two (2) minute question time.
- 6) At all times the participants will respect the right of the Chairperson to refuse any question and/or terminate the question Time Session.

- 7) There is to be no debate on the answer provided.
- 8) Where an answer to a question is provided at the meeting the response to the question is to be recorded in the minutes of that meeting.
- 9) Should an answer to a question not be provided at the Council Meeting, a written response will be forwarded to the person raising the question within seven (7) days of the meeting. A copy of the response is to be provided to Councillors, published on Council's website and recorded in the minutes of the following meeting.
- 10) Applications for question time made by individuals, on behalf of an organisation, may be asked to provide proof that they have the organisation's authority to ask questions on the organisation's behalf.
- 11) Questions are not to be directed to any individual and they are to be in regard to Council matters.

### **3. QUESTIONS**

#### **3.1 Questions on Notice**

- 1) As a standard practice, "Questions on Notice" shall be listed in all agendas of Ordinary Council Meetings.
- 2) Questions on Notice must be submitted in writing to Council's Governance Section by no later than 10.00am on the Tuesday preceding the Council Meeting.
- 3) The Questions on Notice may be asked by the Councillor submitting the question or another Councillor, should the Councillor who submitted the question be absent from the meeting, at the Council Meeting.
- 4) The Councillor must put every such question directly, succinctly and without argument.
- 5) If an answer to a Question on Notice can be given at the Council Meeting then such shall be done either in writing or verbally and a record made in the Minutes of the Meeting. If an answer can be given, but not at the meeting, i.e. due to further research being required, the question can be taken "On Notice" and the chairperson shall indicate to whom the question is to be directed and the basis upon which the answer is to be provided (i.e. whether in writing and direct to the enquirer, to all Councillors or reported to the next or subsequent Council Meeting).
- 6) When an answer has been given to a Question on Notice, the chairperson must not allow any discussion on any reply or refusal to reply to the question (clause 249 of the Regulation)
- 7) When an answer has been given to a Question on Notice, no motion can be moved at the Council meeting. However if a matter is genuinely urgent, it could be dealt with under the urgency provisions (clause 241(3)) of the Regulation as is the case with any matter of urgency.)
- 8) If a Councillor seeks to have a matter arising from a question and answer considered by the Council, a Notice of Motion should be submitted to the General Manager in accordance with the Notice of Motion provisions of the Code of Meeting Practice.

#### **3.2 Questions For Next Meeting (in writing)**

- 1) As a standard practice, "Questions for Next Meeting" shall be listed in all agendas of Ordinary Meetings of Council. The agenda item shall contain a report of the questions asked at the last Council Meeting and the responses to those questions and provide an opportunity for the Councillors to ask questions for the next Council Meeting.

- 2) Questions asked at a Council Meeting shall also be submitted in writing.
- 3) The Councillor must put every question directly, succinctly and without argument.
- 4) The Mayor shall refer the question to the General Manager or if the question is directed to another Councillor, the Councillor concerned. There shall be no requirement to answer the question immediately.
- 5) If the answer to a question can be given immediately, and it makes sense to do so, then such shall be done and a record made in the Minutes of the Meeting.



## **4. ORDER AND DISORDER AT COUNCIL MEETINGS**

### **4.1 Questions of Order**

- 1) The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- 2) A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- 3) The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.
- 4) The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed. **[REGULATION CLAUSE 255]**

### **4.2 Acts of Disorder**

- 1) A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the 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.
- 2) The chairperson may require a councillor:
  - a) to apologise without reservation for an act of disorder referred to in sub-clause (1)(a) or (b), or
  - b) to withdraw a motion or an amendment referred to in sub-clause (1)(c) and, where appropriate, to apologise without reservation, or
  - c) to retract and apologise without reservation for an act of disorder referred to in sub-clause (1)(d) or (e).
- 3) A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of a council for having failed to comply with a requirement under sub-clause (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. **[REGULATION CLAUSE 256]**

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

- 1) If disorder occurs at a meeting 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 sub-clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.
- 2) A member of the public may, as provided by section 10 (2)(a) or (b) of the Act, be expelled from a meeting of council for engaging in or having engaged in disorderly conduct at the meeting. **[REGULATION CLAUSE 257]**

#### **4.4 Power to Remove Persons from Meeting after Expulsion**

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

- 1) immediately after the council has passed a resolution expelling the councillor or member from the meeting, or
- 2) where the council has authorised the person presiding at the meeting to exercise the power of expulsion, immediately after being directed by the person presiding to leave the meeting.

A police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member from that place and, if necessary, restrain the councillor or member from re-entering that place. **[REGULATION CLAUSE 258]**

#### **4.5 Mayor Authorised to Exercise Power of Expulsion**

The Mayor be authorised to exercise the power of expulsion as it applies to acts of disorder arising from the conduct of members of the public or acts of disorder arising from the conduct of Councillors. **[POLICY]**

## **5. MINUTES OF COUNCIL MEETINGS**

### **5.1 Minutes**

- 1) The council must ensure that full and accurate minutes are kept of the proceedings of a meeting of the council.
- 2) The minutes must, when they have been confirmed at a subsequent meeting of the council, be signed by the person presiding at the subsequent meeting. **[ACT SECTION 375]**

### **5.2 Recording of Voting on Planning Matters**

- 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*:
  - a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
  - b) not including the making of an order under Division 2A of Part 6 of that Act.
- 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.
- 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.
- 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.
- 5) This section extends to a meeting that is closed to the public. **[ACT SECTION 375A]**

## **6. CALLING OF COMMITTEE MEETINGS**

### **6.1 Committee of the Whole**

- 1) All the provisions of the Regulation relating to meetings of the council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provision limiting the number and duration of speeches.
- 2) The general manager or in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council proceedings in committee of the whole. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- 3) 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. **[REGULATION CLAUSE 259]**

### **6.2 Extension and Restriction on Number and Duration of Speeches in Committee of the Whole Meetings**

The Council may, by resolution, extend or restrict the number and duration of speeches in Committee of the Whole meetings.

### **6.3 Council may Establish Committees**

- 1) A council may, by resolution, establish such committees as it considers necessary.
- 2) A committee is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- 3) The quorum for a meeting of such a committee is to be:
  - a) such number of members as the council decides, or
  - b) if the council has not decided a number – a majority of the members of the committee. **[REGULATION CLAUSE 260]**

### **6.4 Sunset Committees**

The operation of Task Forces, Sunset Committees and Working Parties be:

- 1) Membership shall not be limited in size but shall, generally, be kept to a small number for purposes of effectiveness.

- 2) a) Membership shall be appropriate to the task(s) to be performed, and may consist of:  
  
Councillors alone,  
Councillors and staff,  
Council and community representatives.
- b) Membership of Councillors, once a number is agreed, shall be by appointment by the Council.
- 3) The appointed group, as its first duty, shall determine its preferred terms of reference unless this has already been done by the Council or appropriate Council Committee. In the event of the group being assigned the particular duty it shall make a recommendation as to the terms of reference forthwith to the appropriate Council Committee. The terms of reference will address the particular task, a program for completion of the task and the means of reporting progress.
- 4) The group shall, if requested, submit written reports on progress and at nominated times.
- 5) Preferably, the group should be subject to a “sunset” provision; and this shall be a consideration of the Council at the time of appointment.

## **6.5 Functions of Committees**

A council must specify the functions of each of its committees when the committee is established, but may from time to time amend those functions.  
**[REGULATION CLAUSE 261]**

## **6.6 General Power of the Council to Delegate**

- 1) A Council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council, other than the following:
  - the appointment of a general manager
  - the making of a rate
  - a determination under section 549 as to the levying of a rate
  - the making of a charge
  - the fixing of a fee
  - the borrowing of money
  - the voting of money for expenditure on its works, services or operations
  - the compulsory acquisition, purchase, sale exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)
  - the acceptance of tenders which are required under this Act to be invited by the council

- the adoption of an operational plan under section 405
  - the adoption of a financial statement included in an annual financial report
  - a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
  - the fixing of an amount or rate for the carrying out by the council of work on private land
  - the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work
  - the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning & Assessment Act 1979
  - the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194
  - a decision under section 356 to contribute money or otherwise grant financial assistance to persons
  - a decision under section 234 to grant leave of absence to the holder of a civic office
  - the making of an application, or the giving of a notice, to the Governor or Minister
  - this power of delegation
  - any function under this or any other Act that is expressly required to be exercised by resolution of the council.
- 2) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Director-General except as provided by the instrument of delegation to the council. **[ACT SECTION 377]**

## **6.7 Delegated Authority of Committees**

Council Committees have delegated authority to deal with matters which relate to their functions subject to the restrictions of Section 377 of the Local Government Act and Council's Policies and Safeguards.

## **6.8 Notice of Committee Meetings to be Given**

- 1) The general manager of the council must send to each councillor, at least 3 days before each meeting of the committee, a notice specifying:
  - a) the time and place at which and the date on which the meeting is to be held, and
  - b) the business proposed to be transacted at the meeting.
- 2) However, notice of less than 3 days may be given of a committee meeting called in an emergency. **[REGULATION CLAUSE 262]**

## **6.9 Absence from Committee Meetings**

- 1) A member (other than the Mayor) ceases to be a member of a committee if the member:
  - a) has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
  - b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the Committee acceptable reasons for the member's absences.
- 2) Sub-clause (1) does not apply in respect of a committee that consists of all the members of the council.

**Note:** *The expression "year" means the period beginning 1 July and ending the following 30 June. See the dictionary to the Act.* **[REGULATION CLAUSE 268]**

## **6.10 Alteration of Meeting Times**

A Committee Chairperson may, in consultation with the Mayor and General Manager, alter the commencement times of meetings where the amount of business or such other special circumstances may prevail.

## **7. CONDUCT OF COMMITTEE MEETINGS**

### **7.1 Procedure in Committees**

- 1) Subject to sub-clause 3, each committee of the council may regulate its own procedure.
- 2) Without limiting sub-clause (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.
- 3) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands) **[REGULATION CLAUSE 265]**

### **7.2 Committee Chairperson to have Casting Vote in limited Circumstances**

The Chairperson of a Committee can use, at his or her discretion, a casting vote for individual circumstances provided that the casting vote is used only to progress consideration of the matter and does not finally determine the matter. Under no circumstances can a casting vote be used to finalise the matter and in circumstances where the use of a casting vote would (if exercised) finalise the matter, the recommendation or alternate recommendations receiving equal votes must be referred to the Council for its decision.

The Chairperson may use a casting vote for an Item where, through Council's delegations, policies and safeguards, the matter is referred to full Council for determination.

### **7.3 Which Parts of a Meeting can be Closed to the Public**

- 1) A council, or a committee of the council of which all the members are councillors, may close to the public so much of its meeting as comprises:
  - a) the discussion of any of the matters listed in subclause (2), or
  - b) the receipt or discussion of any of the information so listed.
- 2) The matters and information are the following:
  - a) personnel matters concerning particular individuals (other than councillors),
  - b) the 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.
- 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 to the public, as to whether that part of the meeting should be closed. **[ACT SECTION 10A]**

#### **7.4 Further Limitations Relating to Closure of Parts of Meetings**

- 1) A meeting is not to remain closed during the discussion of anything referred to in section 10A (2):
- a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
  - b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret - unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.
- 2) A meeting is not to be closed during the receipt and consideration of information or advice referred to in section 10A (2) (g) unless the advice concerns legal matters that:
- a) are substantial issues relating to a matter in which the council or committee is involved, and
  - b) are clearly identified in the advice, and
  - c) are fully discussed in that advice.

- 3) If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in section 10A (2)).
- 4) For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
  - a) a person may misinterpret or misunderstand the discussion, or
  - b) the discussion of the matter may:
    - i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
    - ii) cause a loss of confidence in the council or committee
- 5) In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must have regard to any relevant guidelines issued by the Director-General. **[ACT SECTION 10B]**

## **7.5 Notice of Likelihood of Closure not required in Urgent Cases**

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

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

## **7.6 Grounds for Closing Part of Meeting to be Specified**

- 1) The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.
- 2) The grounds must specify the following:
  - a) the relevant provision of section 10A (2),
  - b) the matter that is to be discussed during the closed part of the meeting,

- c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.**[ACT SECTION 10D]**

## **7.7 Procedure for the Public to Address Council on whether part of a Meeting should be Closed**

Members of the public may make representation at Committee Meetings before a part of the meeting is closed to the public, as to whether that part of the meeting should be closed to the press and public.

Subject to the Committee formally resolving to close part of a meeting, the procedure to consider representations shall be:

- 1) Immediately after a motion to close part of a meeting to the public has been moved and seconded, the chairperson will ask the General Manager if there are any written submissions from the public on the proposed closure of the meeting.
- 2) The General Manager will read out any written representations.
- 3) The chairperson will ask if any persons wish to make verbal representations in relation to why the meeting should not be closed to the public,
- 4) Debate on the motion will be suspended to allow the public to make such representations,
- 5) An opportunity to speak will be given to each person who wishes to comment, chosen in random order by the Chairman. In addition, the Chairman may choose to request representative persons chosen by the public gallery, speaking for or against the motion,
- 6) Each person addressing the Council will be allowed to speak for two (2) minutes,
- 7) The Committee will then consider all representations made, including those received before the meeting, when deciding whether to close part of the meeting to the public.
- 8) Committee to vote on the motion to close the meeting.

***Note:*** *Maximum of ten (10) minutes per item allowed, subject to the Chairman having the discretion to increase the period to thirty (30) minutes per item.*

## **7.8 Representation by Members of the Public - Closure of Part of Meeting**

- 1) A representation at a 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.
- 2) That period is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix that period) as fixed by resolution of the council. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings. **[REGULATION CLAUSE 264]**

## **7.9 Chairperson and Deputy Chairperson of Committees**

- 1) The chairperson of each committee of the council must be:
  - a) the mayor; or
  - b) if the mayor does not wish to be the chairperson of a committee - a member of the committee elected by the council; or
  - c) if the council does not elect such a member - a member of the committee elected by the committee.
- 2) A Council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
- 3) If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
- 4) The chairperson is to preside at a meeting of a committee of the 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. **[REGULATION CLAUSE 267]**

## **7.10 Attendance of General Manager at Meetings**

- 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.

- 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.
- 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 **[ACT SECTION 376]**

### **7.11 A Committee can refer a Matter to Full Council**

A Committee can resolve to refer a matter to the Council for any reason. This usually occurs where the Committee is divided in its view or is seeking clarification of a particular issue prior to determining the matter. This process allows a decision to be achieved without the need for a deferral to the following meeting of that Committee.

### **7.12 Certain Circumstances do not invalidate Council Decisions**

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

- a) a vacancy in a civic office; or
- b) a failure to give notice of the meeting to any councillor or committee member; or
- c) any defect in the election or appointment of a councillor or committee member; or
- d) a failure of a councillor or a committee member to disclose a pecuniary interest, 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. **[ACT SECTION 374]**

### **7.13 Representations to Committee Meetings by the Public**

Any person wishing to address a Committee Meeting in relation to a matter on the agenda will be allowed five (5) minutes to make their presentation.

If a large number of persons wish to address a Committee Meeting on a particular matter, it will be at the discretion of the Chairperson of the respective Committee to determine, with a view to fairness of representation, how many persons may address the meeting.

A Committee may at any time, invite staff to comment on any matter raised at a Committee Meeting. If matters raised are substantial, the Committee may defer the matter to another meeting in order to obtain clarification of the matters raised.

### **7.14 Public Access to Correspondence and Reports**

- 1) A council and a committee of which all the members are councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- 2) This section does not apply if the correspondence or reports:
  - a) relate to a matter that was received or discussed; or
  - b) were laid on the table at, or submitted to, the meeting,

when the meeting was closed to the public.

- 3) This section does not apply if 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. **[ACT SECTION 11]**

## **8. DISORDER AT COMMITTEE MEETINGS**

### **8.1 Disorder in Committee Meetings**

The provisions of the Act and of the Regulation relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council. **[REGULATION CLAUSE 270]**

### **8.2 Certain Persons may be Expelled from Council Committee Meetings**

- 1) If a meeting or part of a meeting of a committee of a council is closed to the public in accordance with section 10(A) of the Act, any person who is not a councillor may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.
- 2) If any such person, after being notified of 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, 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. **[REGULATION CLAUSE 271]**

### **8.3 Chairperson Authorised to Exercise Power of Expulsion**

The Chairperson of a Committee be authorised to exercise the power of expulsion as it applies to acts of disorder arising from the conduct of members of the public or acts of disorder arising from the conduct of Councillors.

## **9. MINUTES OF COMMITTEE MEETINGS**

### **9.1 Committees to Keep Minutes**

- 1) 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's minutes:
  - a) details of each motion moved at a meeting and of any amendments moved to it,
  - b) the names of the mover and seconder of the motion or amendment
  - c) whether the motion or amendment is passed or lost.
- 2) As soon as the minutes of an earlier meeting of a committee of the council have been confirmed at a later meeting of the committee, the person presiding at the later meeting must sign the minutes of the earlier meeting. **[REGULATION CLAUSE 266]**

### **9.2 Recording of Voting on Planning Matters**

- 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*:
  - a) including a decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but
  - b) not including the making of an order under Division 2A of Part 6 of that Act.
- 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.
- 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.
- 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.
- 5) This section extends to a meeting that is closed to the public. **[ACT SECTION 375A]**



## 10. DECLARATIONS OF INTEREST

### 10.1 Disclosure and Presence in Meetings

- 1) A councillor or a member of a council committee who has a pecuniary interest in any matter with which the council is concerned and who is present at a meeting of the council or committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- 2) The councillor or member must not be present at, or in sight of, the meeting of the council or committee:
  - a) at any time during which the matter is being considered or discussed by the council or committee, or
  - b) at any time during which the council or committee is voting on any question in relation to the matter.
- 3) For the removal of doubt, a councillor or a member of a council committee is not prevented by this section from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or member has an interest in the matter of a kind referred to in section 448.
- 4) Subsections (1) and (2) do not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting, if:
  - (a) the matter is a proposal relating to:
    - (i) the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or
    - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
  - (b) the councillor made a special disclosure under this section in relation to the interest before the commencement of the meeting.
- 5) The special disclosure of the pecuniary interest must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and must:
  - (a) be in the form prescribed by the regulations, and
  - (b) contain the information required by the regulations.

**Note:** The code of conduct adopted by a council for the purposes of section 440 may also impose obligations on councillors, members of staff of councils and delegates of councils.

**[ACT SECTION 451]**

## **10.2 Disclosures to be Recorded**

A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting. **[ACT SECTION 453]**

## **10.3 General Disclosure**

A general notice given to the general manager in writing by a councillor or a member of a council committee to the effect that the councillor or member, or the councillor's or member's spouse, de facto partner or relative, is:

- (a) a member, or in the employment, of a specified company or other body;  
or
- (b) a partner, or in the employment, of a specified person,

is, unless and until the notice is withdrawn, sufficient disclosure of the councillor's or member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice. **[ACT SECTION 454]**

## **10.4 Disclosure by Adviser**

- 1) A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given.
- 2) The person is not required to disclose the person's interest as an adviser. **[ACT SECTION 456]**

## **10.5 Circumstances in which Sections 451 and 456 are not breached**

A person does not breach section 451 or 456 if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest. **[ACT SECTION 457]**

## **10.6 Powers of Minister in Relation to Meetings**

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

- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- b) that it is in the interests of the electors for the area to do so. **[ACT SECTION 458]**

## 11. MISCELLANEOUS

### 11.1 Disclosure and Misuse of Information

- 1) A person must not disclose any information obtained in connection with the administration or execution of this 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 this Act, or
  - (c) for the purpose of any legal proceedings arising out of this Act or 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 purpose.
- 1A) In particular, if part of a meeting of a council or a committee of council is closed to the public in accordance with section 10A(1), a person must not, without the authority of 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.
- 1B) Subsection (1A) does not apply to:
  - a) the report of a committee of a council after it has been presented to the council, or
  - b) disclosure made in any of the circumstances referred to in subsection (1)(a)-e), or
  - c) disclosure made in circumstances prescribed by the regulations, or
  - d) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with section 12.
- 2) A person acting in the administration or execution of this Act must not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known, for the purpose of gaining either directly or indirectly a financial-advantage for the person, the person's spouse or de facto partner or a relative of the person.
- 3) A person acting in the administration or execution of this Act, and being in a position to do so, must not, for the purpose of gaining either directly or indirectly an advantage for the person, the person's spouse or de facto partner or a relative of the person, influence:
  - a) the determination of an application for an approval; or
  - b) the giving of an order. **[ACT SECTION 664]**

## **11.2 Disclosure and Misuse of Information – Prescribed Circumstances**

For the purposes of section 664 (1B)(c) of the Act, any disclosure made with the intention of enabling the Minister or the Director-General to properly exercise the functions conferred or imposed on them by or under the Act is a prescribed circumstance. **[REGULATION CLAUSE 412]**

## **11.3 Tape Recordings of Meetings of Council or Committee Prohibited Without Permission**

- 1) A person may use a tape recorder 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.
- 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 committee of a council for using or having used a tape recorder in contravention of this clause.
- 3) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a Police Officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first mentioned person from that place and, if necessary, restrain the person from re-entering that place.
- 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. **[REGULATION CLAUSE 273]**

## **11.4 Recording Meetings of Council**

- 1) Council may record Council and/or Committee Meetings.
- 2) The purpose of Council recording Council and/or Committee Meetings is solely for the purpose of preparing and/or verifying the accuracy of meeting minutes.
- 3) Recordings of Council and/or Committee Meetings will not be made available to the public or disclosed to any other party other than Council staff for the purpose of preparing and/or verifying meeting minutes.
- 4) Recordings of Council and Committee meetings will be destroyed as soon as the original purpose of preparing and/or verifying minutes is served, except where retention for a longer period is otherwise required or recommended under the State Records Act 1998 **[POLICY 1.1.7 Audio Recording of Council Meetings]**
- 5) Notices will be displayed at all meetings which are being recorded by Council for the purpose of Minute preparation and/or verification. **[POLICY 1.1.7 Audio Recording of Council Meetings]**

## 11.5 Petitions

- 1) That Council affirm its belief in, and support for the right:  
  
“It is the privilege of any individual or body of individuals in the community to petition (Council) to obtain redress of grievances, or to ask it not to do something that is contemplated.”
- 2) That for the purposes of reviewing and dealing with petitions, such documents be formally drawn up, and be directed to matters which are within the powers of authorities of the Council.
- 3) That Petitions presented by Councillors to duly convened Council meetings be subject to consideration of motions in terms “That the petition lies on the table for a period of fourteen (14) days and .....
- 4) That petitions lodged with the Council by post or means other than by presentation by a Councillor at a duly convened meeting of the Council shall be dealt with as ordinary correspondence.

## 11.6 Protocols of Informal Workshops or Information/Explanatory Sessions

Council (and the Division of Local Government) recognise the value of informational sessions/workshops. It is considered that informational sessions/workshops assist the development of Councillor knowledge and expertise, and in facilitating the councillors’ role as public officials.

The Division of Local Government has provided written advice to Council indicating that the provision of general information sessions or explanatory workshops (by a council to its staff or Councillors) is not inconsistent with the Local government Act 1993 or related Regulations.

In order to “define” the operation and function of informal workshops or informational/explanatory sessions undertaken by Council, the following will apply:

- 1) The term “Council Workshop” will be used to identify the conduct of an informal workshop and/or informational/explanatory session of Council.
- 2) An invitation will be extended to all councillors to attend each Council Workshop. The General Manager will authorise/arrange the attendance of staff at Council Workshops (as required).
- 3) Council Workshops are to have a clear focus of providing information on issues, projects, items, etc. relevant to council operations and activities.

- 4) Council Workshops will not be conducted as “formal” meetings; as such persons other than Councillors and staff (see above) will not be permitted to attend unless they have been invited to present information to Council as part of the Workshop.
- 5) Council Workshop items/topics will be initiated by the General Manager and/or at the request of Councillors. Prior to the inclusion of specific Development Application issues or Business Enterprise (external) items, a determination will be made as to whether the workshop discussion of such item will raise issues in respect of Council’s obligations and responsibilities referred to in the Code of Conduct.
- 6) There will be no decisions/recommendations made at council Workshops. Where decisions are required, they will be referred to the next appropriate meeting of Council.
- 7) The provisions of Council’s Code of Conduct will apply to Council Workshops.