

CODE OF MEETING PRACTICE

COUNCIL POLICY

BACKGROUND

As part of its Charter, Council is to involve Councillors, Council staff, members of the public and others in the development, improvement and coordination of local government. The way in which meetings are conducted is an important part of achieving this goal.

OBJECTIVE

The objectives of this Code of Meeting Practice are:

- to ensure that all meetings of Council and its Committees are conducted in an orderly and proper manner;
- to ensure that all meetings of Council and its Committees are conducted according to the principles of procedural fairness and due process;
- **to assist with the conduct of discussion and debate during Council and Committee meetings;**
- to increase Council's professionalism, transparency and accountability to the community;
- to ensure that all Councillors understand their rights and obligations during Council and Committee meetings;
- to ensure that all Councillors have an equal opportunity to participate fully in the meeting;
- to ensure that Councillors participate in meetings that engender a positive meeting environment that is without malice and avoids insulting, improper or defamatory statements; and
- to be an effective aid to good governance.

POLICY STATEMENT

Council and Committee meetings comprising of Councillors only are to be conducted in accordance with this Code of Meeting Practice.

STATEMENT OF PROCEDURES

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DEFINITIONS

Amendment	in relation to an original motion, means a motion moving an amendment to that motion.
Chairperson	means: <ul style="list-style-type: none">a) for a meeting of the Council – the Lord Mayor;b) for a meeting of a Committee of the Council – the person presiding at the meeting as provided by Clause 6.8 of this Code.
Committee	in relation to the Council, means a Committee appointed or elected by the Council in accordance with Clause 6.2 of the Code or the Council when it has resolved itself into a Committee of the Whole.
DLG Circular 10-10	Division of Local Government Circular 10 – 21 May 2010
DLG Prac Note 16/2009	Division of Local Government Meetings Practice Note No 16 – August 2009
DLG C of C 2008	Division of Local Government Model Code of Conduct - June 2008
DLG C of C 2008 Guidelines	Division of Local Government Model Code of Conduct Guidelines - June 2008
DMB	Dunhill Madden Butler Guideline Series – Council Meeting Guidelines Aug 1999.
LGA	means the Local Government Act 1993.
Motion	a proposal put forward by a Councillor or a Committee member calling for a specific action to be taken or a decision to be made on a particular matter before the meeting.
Record	means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by an Administrator or an employee of the Council and, in particular, includes the minutes of meetings of the Council or of a Committee of the Council.
Reg	Local Government (General) Regulation 2005
Relative	relative, in relation to a person, means any of the following; <ul style="list-style-type: none">(a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or the person's spouse or de facto partner;(b) the spouse or de facto partner of the person or of a person referred to in paragraph (a).

APPLICATION OF THE CODE

Conduct of Meetings of Council and Committees

- (1) The Regulations of the Local Government Act may make provisions with respect to the conduct of meetings of Councils and Committees of Councils of which all members are Councillors.
- (2) A Council may adopt a Code of Meeting Practice which incorporates the Regulations made for the purpose of this Section and supplement those Regulations with provisions that are not inconsistent with them.
- (3) A Council and a Committee of the Council of which all the members are Councillors must conduct its meetings in accordance with the Code of Meeting Practice adopted by it.

LGA Sec 360

Preparation, Public Notice and Exhibition of Draft Code

- (1) Before adopting a Code of Meeting Practice, a Council must prepare a draft Code.
- (2) The Council must give public notice of the draft Code after it is prepared.
- (3) The period of public exhibition must not be less than 28 days.
- (4) The public notice must also specify a period of not less than 42 days after the date on which the draft Code is placed on public exhibition during which submissions may be made by the public.
- (5) The Council must publicly exhibit the draft Code in accordance with its notice.

LGA Sec 361

Adoption of the Code

- (1) After considering all submissions received by it concerning the draft Code, the Council may decide:
 - (a) to amend those provisions of its draft Code that supplement the Regulations made for the purposes of this Section of the Code; or
 - (b) to adopt the draft Code as its Code of Meeting Practice
- (2) If the Council decides to amend its draft Code, it may publicly exhibit the amended draft in accordance with this Section of the Code or, if the Council is of the opinion that the amendments (arising from the public submissions only) are not substantial, it may adopt the amended draft Code, without public exhibition, as its Code of Meeting Practice

LGA Sec 362

Amendment of the Code

A Council may amend a Code adopted under this Section by means only of a Code so adopted.

NOTE: Council may only amend its Code of Meeting Practice by preparing a new draft Code and complying with the public consultation procedure set out in this Section of the Code.

The only exception is when an amendment is triggered by a change in the Local Government Act or the Local Government (General) Regulation 2005. In such cases the legislation effectively amends a Code of Meeting Practice.

DLG Circular 10-10

Public Availability of the Code

- (1) The Code of Meeting Practice adopted under this Section by a Council must be available for public inspection free of charge at the office of the Council during ordinary office hours.
- (2) **Copies of the Code will be available free of charge.**

LGA Sec 364

NOTE: A copy of the Code is also available on Council's website.

PART 1 – NOTICE OF MEETINGS

1.1 Frequency of Meetings

- (1) Council is required to meet at least 10 times each year, each time in a different month.
LGA Sec 365
- (2) Ordinary Meetings of Council as per the adopted meeting cycle will generally commence at (6.00pm) in the Council Chambers on Level 10 of the Administration Building, 41 Burelli Street, Wollongong unless otherwise determined by the Lord Mayor and General Manager.
Council Protocol
- (3) Council and Committee meetings may be held in different locations from time to time if circumstances deem it necessary provided that the venue:
 - (a) is accessible for people with disabilities,
 - (b) is adequate in size
 - (c) has adequate facilities for the convenience and comfort of Councillors, staff and members of the public, and
 - (d) has suitable acoustic properties.DLG Prac Note 16/2009 – Pg 1
- (4) The date and time for Extraordinary meetings of Council will be determined as and when required. Extraordinary meetings are additional meetings to those in the adopted Council meeting cycle and include those called in an emergency.
Council Protocol

1.2 Notice to Councillors for Ordinary Meetings

- (1) Notice of Meetings – the General Manager must send to each Councillor, at least 3 days before each meeting of the Council (or Committee), a notice specifying the time and place at which and the date on which the meeting is to be held and the business to be transacted at the meeting.
LGA Sec 367 (1)
- (2) Days of Notice – the 3 days notice means three clear days, exclusive of the day of giving notice and of the day of the meeting –
Sec 36(1) of the Interpretation Act 1987 (NSW)
- (3) Form of Notice – a notice under this section and the agenda and business paper for the meeting may be given to Councillors in electronic form, but only if all Councillors have facilities to access the notice, agenda and business paper in that form.
LGA Sec 367 (3)

1.3 Notice to Councillors for Extraordinary Meetings

- (1) If the Lord Mayor receives a request in writing signed by at least 2 Councillors (the Lord Mayor can be one of the two Councillors), the Lord 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.

LGA Sec 366

If the Lord Mayor refuses or delays to call an Extraordinary Meeting of Council after receiving a request under Clause 1.3 (2) of this Code, those Councillors may, in writing, request the General Manager to call the Extraordinary Meeting of Council. The General Manager shall call the meeting as soon as it is practicable.

DMB Pg 2

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

LGA Sec 367 (2)

1.4 Public Notice

- (1) Council must give notice to the public of the times and places of meetings of Council and Committees of which all members are Councillors.

LGA Sec 9 (1)

- (2) A notice of a meeting of Council or a Committee must be published in a newspaper circulating in the Wollongong local government area before the meeting takes place.

Note - An advertisement indicating Council and Committee meetings schedule will be included on Council's page in the Wollongong Advertiser and on the Council website at www.wollongong.nsw.gov.au

Reg 232 (2)-(5)
Council Protocol

PART 2 – QUORUM AND ATTENDANCE

2.1 Quorum for a meeting

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

LGA Sec 368

2.2 Participation in Council meetings

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

Reg 235

2.3 Quorum not present

- (1) A meeting of Council must be adjourned if a quorum is not present:
 - (a) within half an hour after the time designated for the holding of the meeting, or
 - (b) at any time during the meeting
- (2) In either case, the meeting must be adjourned to a time, date and place fixed:
 - (a) by the Chairperson, or
 - (b) in his or her absence – by the majority of the Councillors present, or
 - (c) failing that, by the General Manager

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

Reg 233

Where a quorum is not present Councillors are able to discuss the agenda and make notes on the discussion however it is not able to make recommendations.

Council Protocol

2.4 Attendance at Council Meetings

A civic office becomes vacant if the holder (Councillor):

- (1) is absent from 3 consequent ordinary meetings of Council (unless the holder is absent because he or she has been suspended from civic office under Section 482) without:
- (a) prior leave of Council, or
 - (b) leave granted by Council at any of the meetings concerned.

LGA Sec 234 (1) (d)

2.5 Application for leave of absence

- (1) For the purposes of Clause 2.4 of this Code, a Councillor applying for a leave of absence from a meeting of Council does not need to make the application in person and the Council may grant such leave in the absence of that Councillor.
- (2) A Councillor's application for leave of absence from Council meetings should, if practicable, identify (by date) the meetings from which the Councillor intends to be absent.

LGA Sec 234 (2)

Reg 235A (1)

2.6 Meeting attendance whilst on leave of absence

- (1) 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.
- (2) Subsection (1) above does not prevent Council from granting further leave of absence in respect of any future Council meeting.
- (3) A Councillor who intends to attend a Council meeting despite having been granted leave of absence should, if practicable, give the General Manager at least 2 days' notice of his or her intention to attend.

LGA Sec 234 (3)-(4)

Reg 235A (2)

2.7 Who is entitled to attend Council or Committee meetings

- (1) Except as provided elsewhere in this Code:
- (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) A person (whether a Councillor or another person) is not entitled to be present at a meeting of the Council or of 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 – refer Part 8 of this Code.

LGA Sec 10

2.8 Attendance of General Manager

- (1) The General Manager is entitled to attend, but not vote at, a meeting of the Council or at 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.

LGA Sec 376

PART 3 – PRESIDING OVER MEETINGS OF COUNCIL

3.1 Who presides at meetings of Council

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

LGA Sec 369

3.2 Councillors to preside at Council 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.
- (2) The election must be conducted:
 - (a) by the General Manager or, in their absence, the Public Officer to conduct the election; or
 - (b) if neither of them is present at the meeting or there is no General Manager or Public Officer – by the person who called the meeting or a person acting on their behalf.
- (3) If, at an election of a Chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the Chairperson is to be the candidate whose name is chosen by lot.
- (4) For the purposes of subclause (b), 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.

Reg 236

3.3 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.

Reg 237

3.4 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.
- (4) The Chairperson is to ensure that motions and amendments are clearly stated for the benefit of all present and may request a Councillor to repeat the motion or amendment if unclear or inaudible.

Reg 238

Council Protocol

3.5 Mode of address

To facilitate debate, Councillors, with the exception of the Chairperson, are to stand in their place when speaking at a meeting of Council, unless prevented from doing so by disability or injury. This procedure does not need to be followed at Committee meetings or in circumstances where the Chairperson rules that standing is not required.

In addressing Council, Councillors and other persons addressing the Council will use the appropriate mode of address to the Lord Mayor (being My Lord Mayor or Mr or Madam Chair), Deputy Lord Mayor, fellow Councillors, Council employees and members of the public in attendance.

Councillors shall at all times conduct themselves in accordance with the general conduct obligations contained with Council's adopted Code of Conduct. Councillors shall respect the right of their fellow Councillors to speak without interruption, shall only speak when called upon by the Chairperson and should speak through the Chairperson.

Council Protocol

PART 4 – MEETING AGENDA AND BUSINESS PAPERS

4.1 Agenda and business papers for ordinary meeting

- (1) 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.
- (2) 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;
 - (b) if the Lord 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 (3), any business of which due notice has been given.
- (3) 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.
- (4) The General Manager must ensure that the details of any item of business to which Section 9 (2A) of the LGA applies are included in a business paper agenda for the meeting concerned – ie items considered in Closed Council.
- (5) Nothing in this Clause limits the powers of the Chairperson under Clause 4.8 of this Code
- (6) Confidential items on both Council and Committee Business Paper Agenda's for open meetings are to be listed after all non-confidential items.

Reg 240

Council Protocol

4.2 Agenda and business papers for closed meeting

- (1) 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 agenda for the meeting must also indicate the reason the item will be dealt with in the closed part of the meeting which must be one of the following –
- (i) personal matters concerning particular individuals (other than Councillors);
 - (ii) the personal hardship of any resident or ratepayer;
 - (iii) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business;
 - (iv) commercial information of a confidential nature that would, if disclosed
 - prejudice the commercial position of the person who supplied it, or
 - confer a commercial advantage on a competitor of the Council, or
 - reveal a trade secret;
 - (v) information that would, if disclosed, prejudice the maintenance of law;
 - (vi) matters affecting the security of the Council, Councillors, Council staff or Council property;
 - (vii) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
 - (viii) information concerning the nature and location of a place or an item of Aboriginal significance on community land.
- (c) the requirements of Clause 4.3 (1) with respect to the availability of business papers do not apply to the business papers for any item of business referred to in Clause 4.2 of this Code.

LGA Sec 9 (2A)

- (2) The General Manager must ensure that the details of any item of business to which Clause (a) applies are included in a business paper for the meeting concerned. For example:

Item 5 Annual tenders for goods and services

Reason Information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business

4.3 Distribution of agenda and business papers

- (1) A Council and each such Committee of which all members are Councillors must have available for the public at its offices and at each meeting copies (for inspection or taking away by any person) of the agenda and the associated business papers (such as correspondence and reports) for the meeting.
- (2) The copies are to be available to the public as nearly as possible to the time they are available to Councillors.
- (3) The copies are to be available free of charge.
- (4) 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.

LGA Sec 9 (2)-(5)

Note – Four copies of the agenda and business papers will be provided at Council and Committee meetings.

Council's agenda and business papers are available on the Council website at www.wollongong.nsw.gov.au.

Council's agenda and business papers or individual reports may be obtained from Council's Customer Service Centre or the libraries free of charge.

4.4 Removal of items from the agenda and business papers

- (1) Once the agenda for a meeting has been sent to Councillors, an item of business on the agenda cannot be removed from the agenda prior to the meeting.
- (2) If it is proposed that an item of business which is on the agenda not be dealt with at the meeting, Council should resolve to defer that business to another meeting or resolve not to consider the matter, as the case may be.

DLG Prac Note 16/2009 – Pg 8

4.5 Order of business

- (1) The Order of Business at Ordinary Meetings of Council, other than Extraordinary Meetings, where required shall be –
- Acknowledgement of Traditional Owners
 - Civic Prayer
 - Apologies
 - Disclosures of Pecuniary Interest
 - Petitions and Presentations
 - Confirmation of Minutes of Ordinary Council Meeting
 - Confirmation of Minutes of Extraordinary Council Meeting
 - Confirmation of Minutes of Council Committee Meeting
 - Public Access Forum
 - Lord Mayoral Minute
 - Notice of Motion(s)
 - Notice of Rescission
 - Call of the Agenda

- Agenda Items
- Confidential Business

Note – All Questions Without Notice and tabling of letters are to be submitted by way of the Councillor Request Process.

- (2) The order of business fixed under subclause (1) may be altered if a motion to that effect is passed. Such a motion can be moved without notice.
- (3) Despite Clause 7.4 only the mover of a motion referred to in subclause (2) may speak to the motion before it is put.

Reg 239

- (4) Where a Council meeting has not concluded by 10.00pm, the Lord Mayor will move a Procedural Motion that the meeting be adjourned. In accordance with Clause 7.1 (3) of this Code this Motion does not require a seconder and debate will take place as to a date and time for the meeting to reconvene to consider all business not transacted at the adjourned meeting.

Council Protocol

Council does not need to issue a new agenda and business paper for the adjourned meeting and business not already on the agenda could be dealt with only if the urgency procedure in Clause 4.7 of this Code.

If the meeting is adjourned to a different date, time or place, each Councillor and the public (where practicable) should to be notified of the new date, time or place.

DLG Prac Note 16/2009 – Pg 31

4.6 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 no later than 12.00noon on the day of close off for submission of Agenda Items for the Ordinary meeting in accordance with the Council meeting schedule or three working days in the case of Extraordinary meetings, and
 - (b) unless notice of the business has been sent to the Councillors in accordance with Clause 1.2 of this Code.
- (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 3.2 of this Code; or
 - (c) is a matter or topic put to the meeting by the Chairperson in accordance with Clause 4.7 of this Code; or
 - (d) is a motion for the adoption of recommendations of a committee of the Council.

Reg 241 (1)-(2)

4.7 Dealing with matters without notice at an ordinary meeting

- (1) Despite Clause 4.6 (1) business may be transacted at a meeting of Council even though due notice of the business has not been given to the Councillors. However this can happen only if:
 - (a) a motion is passed to have the business transacted at the meeting, and

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

Such a motion can be moved without notice.

- (2) Despite Clauses 6.5 and 7.4 (2) of this Code only the mover of a motion referred to in Subclause (1) above can speak to the motion before it is put.

Reg 241 (3)-(4)

4.8 Lord Mayoral Minute

- (1) If the Lord Mayor is the Chairperson at a Council meeting, 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 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 agenda/business paper for the meeting. The Chairperson (but only if the Chairperson is the Lord Mayor) may move adoption of the minute without the motion being seconded.

- (3) A recommendation made in a minute of the Chairperson (being the Lord Mayor) or in a report by a Council employee is, so far as adopted by Council, a resolution of Council.

Reg 243

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

DLG Prac Note 16/2009 – Pg 14

- (5) A Late Business Lord Mayoral Minute prepared prior to the Council meeting will be added to the business paper agenda in accordance with the Order of Business as stated in Clause 4.5 of this Code.

Council Protocol

4.9 Agenda and business papers for extraordinary meeting

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

Reg 242(1)

4.10 Dealing with matters without notice at an extraordinary meeting

- (1) Despite Clause 4.9, business may be transacted at an extraordinary meeting of Council even though due notice of the business has not been given to the Councillors. However this can only happen if:

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

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

- (2) Despite Clauses 6.5 and 7.4 (2), only the mover of a motion referred to in Subclause (1) above can speak to the motion before it is put.

Reg 242 (2)-(3)

4.11 Public Access Forum – members of the public addressing Council

Members of the public shall be permitted to address Council or a Committee of Council on matters falling within the jurisdiction and Charter of Council as outlined in the Local Government Act 1993.

All addresses must comply with Council's Public Access Forum Policy.

Council Policy

4.12 Questions to Councillors and Employees

- (1) A Councillor:
 - (a) may, through the Chairperson, put a question to another Councillor; and
 - (b) may, through the Chairperson, put a question to a Council employee.
- (2) 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.

Reg 249

PART 5 – DECLARATIONS OF CONFLICTS OF INTEREST

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

If you are unsure as to whether or not you have a conflict of interests in relation to a matter, you should consider these six points:

- Do you have a personal interest in a matter you are officially involved with?
- Is it likely you could be influenced by a personal interest in carrying out your public duty?
- Would a reasonable person believe you could be so influenced?
- What would be the public perception of whether or not you have a conflict of interests?
- Do your personal interests conflict with your official role?
- What steps do you need to take and that a reasonable person would expect you to take to appropriately manage any conflict of interests?

You must avoid or appropriately manage any conflict of interests. The onus is on each Councillor to identify conflicts of interest and take the appropriate action to manage the conflict in favour of their public duty.

Any conflict of interest must be managed to uphold the probity of Council decision-making.

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

DLG C of C 2008 – Pgs 7 & 10

5.1 What is a pecuniary interest

- (1) For the purposes of this Part, a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain.

- (2) A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter or if the interest is of a kind specified in Clause 5.7 of this Code.

LGA Sec 442

5.2 Who has a pecuniary interest

- (1) For the purposes of this Part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
- (a) the person, or
 - (b) the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, or
 - (c) a company or other body of which the person, or a nominee, partner or employer of the person, is a member.
- (2) However, a person is not taken to have a pecuniary interest in a matter as referred to in Subclause 5.2 (1) (b) or (c) of this Code:
- (a) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
 - (b) just because the person is a member of, or is employed by, a Council or a statutory body or is employed by the crown, or
 - (c) just because the person is a member of, or a delegate of a Council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares or the company or body.

LGA Sec 443

5.3 Disclosure of pecuniary interests and attendance at 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 Clause 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 Clause 5.7 of this Code – matters that don't have to be disclosed.

Reg 451

5.4 What is a non-pecuniary interest

- (1) Non-pecuniary interests are private or personal interests the Council Official has that do not amount to a pecuniary interest as defined in Clause 5.1 of this Code.

- (2) Non-pecuniary interests can be an actual or perceived interest where a reasonable and informed person would perceive a conflict exists. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- (3) The matter of a report to Council from the Conduct Review Committee/reviewer relates to the public duty of a Councillor or the General Manager. Therefore, there is no requirement for Councillors or the General Manager to disclose a conflict of interest in such a matter.
- (4) The political views of a Councillor do not constitute a private interest.

DLG C of C 2008 – Pg 11

5.5 Types of non-pecuniary interests

There are three types of non-pecuniary conflicts of interest:

- (1) **Significant** – as a general rule a non-pecuniary conflict of interest will be significant where a matter does not raise a pecuniary interest but it involves:
 - (a) a relationship between a Council Official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
 - (b) other relationships that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
 - (c) an affiliation between the council official and an organisation, sporting body, club, corporation or association that is particularly strong.
- (2) **Less than significant** – matters not involving the issues identified in Clause 5.5 (1) of this Code.
- (3) **Political donations** – Councillors should take all reasonable steps to ascertain the source of any political contributions that directly benefit their election campaigns.

A Councillor must declare a non-pecuniary conflict of interest where the Councillor or the Councillor's 'official agent' has received 'political contributions' or 'political donations', as the case may be, within the meaning of the Election Funding Act 1981 exceeding \$1,000 which directly benefit their campaign:

- (a) from a political or campaign donor or related entity in the previous four years; and
- (b) where the political or campaign donor or related entity has a matter before Council,

DLG C of C 2008 – Pgs 11/12

5.6 Disclosure of non-pecuniary interests and attendance at meetings

- (1) A Councillor or a member of a Council Committee who has disclosed a **significant** non-pecuniary conflict of interest in accordance with Clause 5.5 of this Code 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 is required to disclose the nature of the interest to the meeting as soon as practicable.

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.
- (2) A Councillor or a member of a Council Committee who has disclosed a **less than significant** non-pecuniary conflict of interest in accordance with Clause 5.5 of this Code in any matter with which the Council is concerned may determine that it does not require further action, and if so, must provide an explanation of why it is considered that the conflict does not require further action in the circumstances.
- (3) A Councillor or a member of a Council Committee who has disclosed that he/she or their official agents have received, in the previous four years, a political donation **exceeding \$1,000** that has directly benefited their campaign, from a donor who has a matter before Council, must disclose this fact to the meeting as soon as practicable.

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

This applies to all Councillors, regardless of whether they are independent Councillors or a member of a political group or party.

- (4) Where a Councillor or a member of a Council Committee or their official agents have received, in the previous four years, a political donation **under \$1,000** that has directly benefited their campaign, from a donor who has a matter before Council, it may give rise to a non-pecuniary conflict of interest. In such cases Councillors should consider the perceptions of influence that might be created and consider the six points at the commencement of Part 5 of this Code.

If the Councillor or a member of a Council Committee determines that a non-pecuniary conflict of interest may exist, they need to consider whether or not the conflict of interest is significant as defined in Clause 5.5 (1) of this Code.

- (a) If the conflict of interest is deemed significant the Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - (i) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - (ii) at any time during which the Council or Committee is voting on any question in relation to the matter
- (b) If the conflict of interest is deemed less than significant it remains open for the Councillor or member to take additional steps to manage any perception of a conflict of interest.

This applies to all Councillors, regardless of whether they are independent Councillors or a member of a political group or party.

DLG C of C 2008 Guidelines – Pgs 19/22

Written Declarations of Pecuniary Interest

A Councillor who has a pecuniary interest or non-pecuniary interest in accordance with Clauses 5.3 (1), 5.6 (1) and (3) of this Code, in a matter being considered at a Council or Committee meeting must disclose the existence of the interest and also the nature of that interest.

Councillors are requested to make such a disclosure in writing and provide the written disclosure to the General Manager by 12 noon on the day of the meeting. A Councillor, having disclosed a pecuniary interest, must not be present at the meeting when the matter is being considered, discussed or voted on.

This requirement does not prevent a Councillor from disclosing a pecuniary interest at a Council or Committee meeting at which the matter is being considered.

Council Protocol

A Councillor with a pecuniary interest and not capable of voting on the business before the Council is regarded as being absent from the meeting for the purpose of determining whether or not a quorum is present.

DLG Prac Note 16/2009 – Pg 29

Example 1: Club Membership

A councillor is a member of a club in a small community. The councillor is very active in the running of the club. While not an office holder, he is well known to all club members.

The club has recently submitted a development application to the council for a major extension of its facilities.

In this instance, there may be a public perception that the councillor's activities with the club would make it difficult for the councillor to view the matter before the council as a representative of residents and ratepayers generally. This may meet the definition of a significant non-pecuniary conflict of interests.

If so, the councillor should disclose his conflict of interests in the matter when it comes up for consideration. The councillor must then refrain from participating in council's discussion and voting on the matter. The councillor must leave the room when the vote is being taken to ensure that the vote is not recorded in the negative.

DLG C of C 2008 Guidelines – Pg 23

Example 2: Club Membership

A councillor is a member of a local registered club. However, she is not active in the club or involved with the management of the club. In this situation, the councillor merely enjoys the facilities of the club as a privilege of membership.

In this example, should a matter relating to the club arise at council, it is appropriate that the councillor informs the council of her membership (i.e. declares a non-pecuniary conflict of interests that is less than significant). However, it is unlikely that her interest as a club member would influence her role as a councillor representing the view of residents and ratepayers generally. Therefore, she could participate in the decision-making process.

In both situations, the councillors have two different interests in the matters. The first is their interest as a councillor representing residents and ratepayers generally; the second is as club members who are keen to see the club prosper and provide better facilities for its members. There is nothing wrong with a councillor having community as well as civic interests, though there are times when these interests may be perceived as a significant conflict of interests.

The distinguishing features of examples 1 and 2 are that:

- The councillor's interests as a club member in example 6A are likely to influence his role as a representative of residents and ratepayers generally. This would make it difficult for him to be impartial; and
- The public perception of a lack of impartiality would be stronger in the first example particularly given the size of the community and the visibility of the councillor in the club's activities.

If a councillor is an office holder in a club or other organisation, the interest may constitute a pecuniary interest.

DLG C of C 2008 Guidelines – Pg 23

Example 3: Political Support

A local ratepayer has made a campaign donation to a group of local councillors through their official agent in the last 2 years. The ratepayer lodges a development application with council to build a block of units on the land she owns. The development is controversial and receives a lot of media attention.

A potential conflict of interests could arise for a councillor, or group of councillors, when a campaign donor, who contributes financially to their election campaign, has a matter before the council for determination. The conflict of interests arises even when a donation is made through the official agent.

Where the donation exceeds \$1,000 and has been donated within the last 4 years, the councillors must declare a non-pecuniary conflict of interests, disclose the nature of the interest and have no further involvement in the matter by absenting themselves and not taking part in any debate or voting on the matter in accordance with section 451(2) of the Act.

In the circumstances where a donation is less than \$1,000 or the donation is made over 4 years ago, then the councillors would still need to consider whether or not a reasonable and informed person could perceive that a conflict of interests exists and take the appropriate action.

The councillors would also need to consider whether such a political donation gives rise to a reasonable perception of influence in relation to their vote.

If there is a conflict of interests then the councillors would need to determine whether or not it is significant. If the councillors had a close relationship with the donor, then it may be a significant non-pecuniary conflict of interests.

If the councillors consider that there is a non-pecuniary conflict of interests, but it is minimal, then the councillors would need to disclose the interest and its nature and provide an explanation of why further action is not required.

DLG C of C 2008 Guidelines – Pg 22

5.7 Interests that do not require disclosure

The following interests do not have to be disclosed for the purposes of Chapter 14 of the Local Government Act:

- (a) an interest as an elector,
- (b) an interest as a ratepayer or person liable to pay a charge,
- (c) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this Part,
- (d) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part,
- (e) an interest as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not),
- (f) an interest of a member of a Council Committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the Committee member has been appointed to represent the organisation or group on the committee,
- (g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible uses of:
 - (i) land in which the person or a person, company or body referred to in Clause 5.2 (1)(b) or (c) of this Code has a proprietary interest (which, for the purposes of this paragraph, includes

any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or

(ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i)

if the person or person, company or body referred to in Clause 5.2 (1)(b) or (c) of of this Code would by reason of the proprietary interest have a pecuniary interest in the proposal,

- (h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a Company that does not exceed ten per cent of the voting rights in the company,
- (i) an interest of a person arising from the proposed making by the Council of an agreement between the Council and a Corporation, Association or Partnership, being a Corporation, Association or Partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a Director) of the Corporation or is a member (but not a member of the Committee) of the Association or is a partner of the Partnership,
- (j) an interest of a person arising from the making by the Council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area:
 - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation,
 - (ii) security for damage to footpaths or roads,
 - (iii) any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council or by or under any contract,
- (k) an interest relating to the payment of fees to Councillors (including the Lord Mayor and Deputy Lord Mayor),
- (l) an interest relating to the payment of expenses and the provision of facilities to Councillors (including the Lord Mayor and Deputy Mayor) in accordance with a policy under Section 252 of the Local Government Act,
- (m) an interest relating to an election to the office of Lord Mayor arising from the fact that a fee for the following twelve months has been determined for the Office of Lord Mayor,
- (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,
- (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor or member of a Council Committee,
- (p) an interest arising from appointment of a Councillor to a body as representative or delegate of the Council, whether or not a fee or other recompense is payable to the representative or delegate.

LGA Sec 448

5.8 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.

LGA Sec 454

5.9 Disclosure by advisor

(1) A person who, at the request or with the consent of Council or a Council Committee, gives advice on any matter at any meeting of the Council or Council Committee must disclose the nature of any pecuniary interest the person has in a 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 advisor.

LGA Sec 456

5.10 Circumstances where disclosure rules are not breached

A person does not breach Clauses 5.3 and 5.9 of this Code if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

LGA Sec 457

5.11 Disclosure to be recorded in the minutes

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

LGA Sec 453

PART 6 – MOTIONS

6.1 Lodgement of Notices of Motion

A Councillor may lodge a Notice of Motion for inclusion on the Agenda/Business Paper for a forthcoming ordinary or extraordinary meeting of the Council:

(a) A Notice of Motion for an ordinary Council meeting must be submitted in writing and be received by the General Manager no later than 12 noon twelve calendar days prior to the scheduled meeting date.

(b) A Notice of Motion for an Extraordinary Council meeting must be submitted 5 calendar days prior to the proposed meeting day and time. In the event that the business is of an urgent nature, as determined by the Lord Mayor or General Manager, no notice is required.

(c) The Notice of Motion must be signed by at least one Councillor.

Council Protocol

(d) If requested by the Councillor who has lodged a Notice of Motion, the General Manager may provide factual information on the Notice of Motion to assist in discussion of the motion

DLG Circular 10-10

6.2 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 Council:

(a) any other Councillor may move the motion at the meeting, or

(b) the Chairperson may defer the motion until the next Council meeting at which such motion can be considered.

Reg 245

6.3 Formulation of Motions

- (1) A 'motion' is a proposal put forward by a Councillor or member of a Committee calling for a specific action to be taken or a decision to be made on a particular matter before the meeting.
- (2) A Motion should be simple, easy to understand and very specific in its intention.
- (3) Motions should be well structured and if it involves a number of different aspects, there should be different parts to the motion.
- (4) If a motion is complex in its wording and intent, the motion is to be submitted in writing and made available to other Councillors, the General Manager and Minute taker.
DMB Pg 13 and Council Protocol
- (5) In submitting a Notice of Motion, Councillors must balance their civic responsibility for representing the interests of their community with their obligation to use Council's resources effectively and efficiently.
DLG Prac Note 16/2009 – Pg 33

6.4 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 4.8 (2) and 7.4 (2) of this Code where seconding is not required:

- (a) in the case of a Lord Mayoral Minute, put to the meeting without notice, where the adoption of the minute is moved by the Lord Mayor (as Chairperson) under Clause 4.8 of this Code; nor
- (b) in the case of a 'closure motion' moved under Clause 7.4 of this Code.

Reg 246 and DMB Pg 14

6.5 Speaking to motions

- (1) A Councillor, who during a debate at a meeting of Council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment. Remarks in reply must be limited to discussion of issues raised in debate and no new material may be introduced.
Council Resolution – Min 373 of 27/10/03
- (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.
Reg 250 (1)-(2)
- (3) A Councillor who moves an original motion may exercise his or her right to speak to the motion at any point in the debate, prior to the right of reply.
Council Resolution – Min 7 of 25/2/02
- (4) A Councillor must not, without the consent of 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.

Reg 250)3)

6.6 Varying a motion

- (1) A Councillor may seek to vary a motion by:
 - (a) obtaining the consent of the mover of the motion and the consent of Council; or
 - (b) proposing an amendment to the motion

- (2) If a Councillor, including the seconder to the original motion, proposes a variation to a motion, the Chairperson shall ask whether any Councillor objects to the variation. If there is no objection, the proposed variation is adopted into the motion by consent of the Council.
- (3) If there is an objection, the proposed variation must be dealt with as an amendment and seconded and voted on accordingly.
- (4) If the variation is proposed by the seconder to the original motion, but not accepted by Councillors, then a new seconder should be sought for the original motion. This is consistent with the common law rule that a seconder to a motion cannot move an amendment but enables a seconder to move a variation.

Council Protocol

6.7 Amendments to motions

- (1) An amendment may propose that some words be omitted from the motion or added to the motion but it should not contradict the motion.
- (2) Amendments that create a direct negative are not permissible. The proper means of opposing a motion is to vote against it.
- (3) Amendments cannot be moved until the original motion has been seconded.
- (4) Amendments must be moved and seconded.
- (5) The amendment must be moved before debate on the motion has been concluded and the right of reply of the mover of the motion has been exercised.
- (6) It is not in order to propose an amendment which is, in effect, the same as one already rejected or which reserves the intention of one already adopted.
- (7) Not more than one motion and one amendment can be before Council at any one time.
- (8) Once an amendment has been moved and seconded, it cannot be withdrawn without the consent of the meeting.

DMB Pgs 14-15

6.8 Subsequent amendments to motions

If an amendment has been rejected, a further amendment can be moved to the motion to which the rejected amendment was moved, and so on, but no more than one motion and one proposed amendment can be before Council at any one time.

Reg 247

6.9 Foreshadowed motions or amendment

- (1) A Councillor or Committee member may 'foreshadow' a motion without a seconder or an amendment proposed to be moved following consideration of the first motion or amendment.
- (2) Foreshadowed motions and amendments are to be considered in the order in which they were notified.
- (3) Foreshadowed motions and amendments are required to be moved and seconded before debate can commence.

DMB Pg 15 and Council Protocol

PART 7 – PROCEDURAL MOTIONS

7.1 General procedure

- (1) A procedural motion is a motion that refers to the conduct of a meeting.
- (2) Procedural motions are not subject to the notice of motion requirements referred to in Clause 6.1.
- (3) A procedural motion requires a seconder unless stated otherwise in this Code.
- (4) There is no debate on a procedural motion unless stated otherwise in this Code.
- (5) A procedural motion has precedence over substantive motions and must be put to the meeting for a decision in accordance with this Clause.

Council Protocol

7.2 Point of order

- (1) A Councillor may draw the attention of the Chairperson to some irregularity in the meeting proceedings.
- (2) The Councillor does this by raising a 'point of order'
- (3) A point of order does not require a seconder and must be raised immediately and the speaker at the time may be interrupted.
- (4) The Chairperson must suspend business before the meeting to allow the Councillor raising the point of order to state the meeting procedure/s he/she believes have been infringed.
- (5) The Chairperson will subsequently either uphold the point of order or overrule it and the business before the meeting can then continue.

DMB Pgs 16 & 53 and Council Protocol

7.3 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 6.5 of this Code, only the mover of a motion of dissent and the Chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

Reg 248

A Motion of Dissent does not require a seconder.

Council Protocol

7.4 Limitation as to number of speeches

- (1) Despite Clause 6.5 (1) and (2) of this Code, 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.
- (2) The Chairperson must immediately put to the vote, without debate, a motion moved under Subclause (1). A seconder is not required for such a motion.
- (3) 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 Clause 6.5 (1) of this Code.
- (4) If a motion that the original motion or amendment be now put is rejected, the Chairperson must allow the debate on the original motion or the amendment to be resumed.

Reg 250 (4) – (7)

PART 8 – ORDER AT MEETINGS

8.1 Need for order

- (1) The Chairperson, whose authority is derived from the meeting itself, is ordinarily responsible for preserving order at the meeting. In doing so the Chairperson must be impartial and consistent.
- (2) The rationale for the need for order to be preserved is to give all persons entitled a reasonable opportunity of participating in the discussion and voting on matters before the meeting.
- (3) It is the role of the Chairperson to ensure that the proceedings are conducted in a proper manner and that the 'sense of the meeting' is properly ascertained with regard to any question which is properly before the meeting.
- (4) Councillors, Council staff and other persons attending the meeting are required to observe the Code of Meeting Practice and Code of Conduct at all times.
- (5) Members of the public gallery are:
 - (a) not permitted to interrupt meeting procedures or to engage in any disorderly conduct,
 - (b) not permitted to address or approach Councillors during the meeting, unless addressing Council via the Public Access Forum
 - (c) not permitted to bring any items which are deemed to potentially cause discomfort or a safety risk to Councillors, Council staff or other members of the gallery
 - (d) required to switch all mobile phones to 'off' or 'silent' during the course of the meeting
 - (e) not permitted to take any food or drink into the Council Chambers

DMB Pgs 36-37

Council Protocol

8.2 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.

Reg 255

8.3 Acts of disorder

- (1) A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a Committee of 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 subclause (1) (a) or (b), or
 - (b) to withdraw a motion or an amendment referred to in subclause (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 subclauses (1) (d) or (e).
- (3) A Councillor may, as provided by Section 10 (2) (a) or (b) of the Local Government Act, be expelled from a meeting of a Council by the Chairperson for having failed to comply with a requirement under subclause (2). The expulsion of a Councillor from the meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

Reg 256
- (4) The Chairperson may conclude that a Councillor commits an 'act of disorder' pursuant to this Clause if, for example, the Councillor:
 - (a) insults or makes personal reflections on or imputes improper notices to any member of staff or a member of the public,
 - (b) repeatedly ignores a request by the Chairperson to resume his or her seat,
 - (c) brings up matters which are irrelevant or extraneous to the matter being discussed or are of a superfluous nature,
 - (d) engages in tedious repetition, or
 - (e) converses aloud, repeatedly interjects or makes any noise or other disturbance whilst any other Councillor is speaking, or
 - (f) shows deliberate disrespect towards the Chair, or
 - (g) refuses or fails, in any case, to withdraw and apologise, without reservation, for an 'act of disorder' when required to do so by the Chairperson.

DMB Pgs 38-39

8.4 Disorder at meetings – adjournment/expulsion

- (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 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 Local Government Act, be expelled from a meeting of a Council for engaging in or having engaged in disorderly conduct at the meeting.

Reg 257

8.5 Effect of expulsion

A person (whether a Councillor or another person) is not entitled to be present at a meeting of the Council or a Committee of the Council if expelled from the meeting:

- (a) by resolution of the meeting; or
- (b) by the person presiding at the meeting, if the Council has, by resolution, authorised the person presiding to exercise the power of expulsion.

LGA Sec 10 (2)
DMB Pg 40

8.6 Warning to Councillors

If the Chairperson is of the view that the ongoing behaviour of a Councillor is disruptive to the good order of the meeting, the Chairperson:

- (a) shall warn the Councillor that he/she could face a motion to authorise removal from the meeting if he/she continues to breach the Code of Meeting Practice, and
- (b) if a further breach occurs, seek the views of the meeting as to the removal of the Councillor.

Council Protocol

The Regulations do not specifically refer to the need for a 'warning', although it is clear that the power of expulsion may only be exercised after the Councillor in question has been given an opportunity of apologising without reservation and has failed to do so. In that sense, a 'warning' is still required.

DMB Pg 40

8.7 Power to remove persons from Council meeting

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

- (a) immediately after the Council has passed a resolution expelling the Councillor or member of the public from the meeting; or
- (b) where the Council has authorised a 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 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.

Reg 258

8.8 Defamatory Statements

The NSW Ombudsman publication Better Service and Communication for Councils provides information about defamation. It states:

“A statement may be defamatory of a person if it is likely to cause an ordinary reasonable member of the community to think less of a person or to shun or avoid the person”

Councillors acting within their official capacity at meetings of Council or Council Committees may have a defence of ‘qualified privilege’ to actions in defamation. This recognises that you may need to speak freely and publicly in carrying out your duties.

However qualified privilege needs to be treated with great caution. It only covers statements made at a Council or Committee meeting when you are carrying out your duties and on business relevant to the Council. Statements also need to be made with good intentions, not malice.

Council Protocol

A statement made outside a Council or Committee meeting will not be protected by qualified privilege, but may be protected under the Defamation Act 2005.

Councillors need to be guided by their own legal advice on defamation issues.

DLG Prac Note 16/2009 – Pgs 19/20

PART 9 – ADJOURNMENT OF MEETINGS

9.1 Motion to adjourn meeting

- (1) An adjournment of a meeting means a postponement of a meeting. No meeting can be postponed without first being held. Thus in order to postpone a meeting, the meeting must first be held and then adjourned.
- (2) A Councillor may move a procedural motion ‘that the meeting be adjourned’.
- (3) This has the effect of stopping further debate for the time being.
- (4) The motion and any subsequent amendment must be seconded before being put to the vote.
- (5) Discussion can take place in order.
- (6) The mover of the motion must wait until the speaker/s has finished before speaking to the motion.
- (7) No further debate on the motion is permitted.

DMB Pgs 21 & 52

9.2 Amendment to adjourn meeting motion

Amendments to the motion are permitted, but only to the extent that they relate to the time, place and date of the adjourned meeting

DMB Pg 52

9.3 Reconvening an adjourned meeting

- (1) The notice of meeting provisions do not apply to a reconvened meeting. However as a matter of practicality it is desirable to give notice of the date, time and place of the adjourned meeting.
- (2) Once a date and time have been fixed and notice of the adjourned meeting has been given, there is no power to re-fix the date and time of the adjourned meeting.
- (3) An adjourned meeting is not a new meeting but, when it is resumed, simply a continuation of the original meeting.
- (4) Only business already on the Agenda for the adjourned meeting can be dealt with at a reconvened meeting except for business of great urgency raised in accordance with Clause 4.7 (1) of this Code.

DMB Pgs 21-22

DLG Prac Note 16/2009 – Pg 31

PART 10 – CLOSED MEETINGS

10.1 Motion to close part of a meeting

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

- (a) the discussion of any of the matters listed in Clause 10.2 of this Code, or
- (b) the receipt or discussion of any of the information so listed.

LGA Sec 10A (1)

10.2 Grounds to close a meeting or part of a meeting

(1) The matters and information referred to in Clause 10.1 of this Code are the following:

- (a) personal 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:
 - prejudice the commercial position of the person who supplied it, or
 - confer a commercial advantage on a competitor of the Council, or
 - 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.

(2) 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.

LGA Sec 10A (2)-(3)

10.3 Limitations to closing meetings

A meeting is not to remain closed during the discussion of anything referred to in Clause 10.2 (1):

- (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.

LGA Sec 10B (1)

10.4 Discussion of legal matters

A meeting is not to be closed during the receipt and consideration of information or advice referred to in Clause 10.2 (1) (g) of this Code unless the advice concerns legal matters that:

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

LGA Sec 10B (2)

10.5 Motion to close other parts of a meeting

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 Clause 10.2 (2) of this Code), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in Clause 10.2 (1) of this Code).

LGA Sec 10 B (3)

10.6 Matters of public interest

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:
 - cause embarrassment to the Council or Committee concerned, or to Councillors or to employees of the Council, or
 - cause a loss of confidence in the Council or Committee.

LGA Sec 10B (4)

10.7 Departmental Guidelines

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.

LGA Sec 10B (5)

10.8 Notice of closure not required in urgent cases

Part of a meeting of 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 Clause 10.2 (1) of this Code, and
- (b) the Council or Committee, after considering any representations made under Clause 10.9 of this Code, 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.

LGA Sec 10C

10.9 Representations by members of the public before a meeting is closed

- (1) A Council, or a Committee of a Council of which all members are Councillors, 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.
LGA Sec 10A (4)
- (2) A representation at a Council meeting by a member of the public as to whether a part of a meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the meeting is moved and seconded.
- (3) That period is as fixed in Clause 10.9 (4) of this Code. Different periods can be fixed according to the different types of matters to be discussed or received and discussed at closed parts of meetings.
Reg 252
- (4) A maximum period of ten minutes has been allocated by Council, or a Committee of Council, to allow for the verbal receipt of representations as to whether a part of a meeting should be closed to the public, immediately after the motion to close the part of the meeting is moved and seconded. Individual verbal presentations can only be made for a maximum of 5 minutes.
Council Resolution – Min 94 of 14/4/98

10.10 Minutes to specify grounds for closing meetings

- (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 Clause 10.2 (1) of this Code,
 - (b) the matter that is to be discussed during the closed part of the meeting,
 - (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

LGA Sec 10D

A Motion could look like:

“Moved Cr X, seconded Cr Y, that the meeting is closed during the discussion of the matter ‘Item 1: Annual tenders for goods and services’ in accordance with 10.2 (1) (c) of this Code on the basis that:

- the discussion of the matter in an open meeting could prejudice the commercial position of tenderers; and
- on balance, the public interest in preserving the confidentiality of commercial information supplied by tenderers outweighs the public interest in openness and transparency in Council decision-making by discussing the matter in open meeting.”

DLG Prac Note 16/2009 – Pg 45

10.11 Public Attendance at Closed Council Meeting

- (1) Council is able to invite members of the public to address Closed Council meetings on specific matters where it is necessary for the provision of advice. Invited members would be required to leave the meeting prior to voting being undertaken on the matter.
- (2) In undertaking such action Council needs to be mindful that invitations may affect its appearance of impartiality and improper conduct in a matter.

- (3) All persons invited to a Closed Council meeting in accordance with this Clause are subject to the non-disclosure provisions of Section 664 of the LGA.

DLG Prac Note 16/2009 - Pg 47

10.12 Conclusion of Closed Meeting

At the conclusion of business in Closed Council, Council must resolve that the meeting be open to the public.

DLG Prac Note 16/2009 - Pg 47

10.13 Resolutions to be made public

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

Reg 253

10.14 Adoption of Closed Council Resolutions in Open Council

Council is not required to re-make the resolutions made in Closed Council when reverting back to Open Council.

The only matters a Council would adopt are the recommendations made by the Committee of the Whole or recommendations of another Council Committee.

DLG Prac Note 16/2009 - Pg 46

PART 11 – VOTING

11.1 Voting entitlements of Chairperson and 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.

LGA Sec 370

11.2 Method of voting at Council meetings

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, by show of hands or such other electronic means as determined by Council). However, the Council may resolve that the voting in any election by Councillors for Deputy Mayor is to be by secret ballot.

Reg 251 (5)

11.3 Failure to vote on a motion

A Councillor who is present at a meeting of a Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

Reg 251 (1)

11.4 Record of voting

- (1) For all motions on the Agenda and Business Paper Council will record the names of those Councillors who supported the motion and those who opposed (or are taken to have opposed) the motion.
- (2) This Clause extends to a meeting or part of a meeting that is closed to the public.
- (3) Council will record all voting in a voting register available on its website at www.wollongong.nsw.gov.au.

Council Protocol and LGA Sec 375A

PART 12 – DECISIONS OF COUNCIL

12.1 What constitutes a decision of 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.

LGA Sec 371

12.2 Invalidation of Council and Committee 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 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 meeting in accordance with Section 451 of the Local Government Act, or
- (e) a failure to comply with the Code of Meeting Practice.

LGA Sec 374

12.3 Rescinding or altering Council resolutions

The intention here is that the later resolution replaces the earlier one.

DLG Prac Note 16/2009 - Pg 38

- (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 of the Local Government Act and Council's Code of Meeting Practice.

Note – The effect of this is that items are not able to be 'recommitted'.

- (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.

Note – Council is not able to 'recommit' an item at the same Council meeting at which the resolution was carried.

The only means of doing this is to lodge a Rescission Motion, signed by three Councillors and for Council to resolve to deal with the Rescission Motion at that meeting.

- (3) If a motion has been negated (*lost*) by a Council, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with 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 Clause 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 negatived motions do not apply to motions of adjournment.

LGA Sec 372

12.4 Rescinding or altering Part of a Council resolution

While not specifically covered in Section 372 of the LGA, it would appear that a Council could rescind part of a resolution (without rescinding the whole resolution). This view would be subject to any determination of a Court.

DLG Prac Note 16/2009 - Pg 41

12.5 Dealing with Rescission Motions

Resolutions may be rescinded or altered in accordance with the following guidelines:

- (1) A 'Notice of Motion to Rescind' given at the same Council or Committee meeting at which the original resolution proposed to be rescinded was carried shall be -
 - (a) in writing addressed to the General Manager and be signed by at least 3 Councillors.
 - (b) handed to the General Manager during the course of the meeting.
 - (c) any such 'Notice of Motion to Rescind' shall, when handed to the General Manager be examined by the General Manager who shall assess whether it is in order having regard to this Clause.
 - (d) where any such 'Notice of Motion to Rescind' is considered by the General Manager to be in order in terms of this Clause, the Chairperson shall as soon as practicable during the course of the meeting announce that such Notice of Motion has been received. In doing so, the Chairperson shall invite special attention to the resolution proposed to be rescinded and shall seek the leave of Council or the Committee, as the case may be, to have the full contents of the document read to the meeting by the General Manager.
 - (e) consideration shall then be given to and a determination made in respect of the question as to whether the 'Notice of Motion to Rescind' is to be dealt with at the current meeting or the next Council meeting.
- (2) A 'Notice of Motion to Rescind' lodged after the meeting at which the original resolution proposed to be rescinded was carried, will in all instances be considered at the next meeting of Council. In such circumstances no further action to carry the original resolution into effect may be taken (unless already implemented) until the notice of rescission has been dealt with.

Council Resolution - Min 178 of 28/6/06

PART 13 – COMMITTEES OF COUNCIL

13.1 Committee of Council

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

LGA Sec 373

This refers to a 'Committee of the Whole' which is a Committee of Council comprised of all Councillors.

13.2 Committee of the Whole

- (1) This Policy applies to the conduct of a meeting of Council when in 'Committee of the Whole', except the provision limiting the number and duration of speeches.

- (2) The General Manager or Public Officer is responsible for reporting to the Council any recommendations from the 'Committee of the Whole'.
- (3) Any recommendations of the Committee must be recorded in the Council's minutes. The Council must move a motion to adopt the report of the Committee.

Reg 259

13.3 Council may establish Committees

- (1) A Council may by resolution establish such Committees as it considers necessary.
- (2) Such a Committee is to consist of the Lord Mayor and such other Councillors as are elected by the Councillors or appointed by the Council.
- (3) In electing Committee members, a Councillor may be nominated or elected in his or her absence.
DLG Prac Note 16/2009 – Pg 53
- (4) 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.
Reg 260
- (5) If a Council Committee consists of Councillors only, the relevant meeting provisions of the Local Government Act, the Regulation and this Code of Meeting Practice govern its procedure.
DLG Prac Note 16/2009 – Pg 54

NOTE: In almost all cases, reference to Council Committees in the LGA specifically state, 'a Committee of which all the members are Councillors'. These can be 'Committees of the Whole' (that is all Councillors including the Lord Mayor only), or a Committee established under Clause 260 of the Reg (that is the Lord Mayor and some Councillors only).

Sections 355(b) and 376(2) of the LGA refer to Committees whose members include people who are not Councillors.

DLG Prac Note 16/2009 – Pg 53

13.4 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.

Reg 261

Committees of Council comprised of Councillors only may have specific functions delegated to them by Council. Council may also be supported by Liaison and Advisory Committees which comprise Councillor and external membership and act in an advisory capacity.

Council Protocol

13.5 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.

Reg 262

13.6 Non-members entitled to attend Committee Meetings

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

Reg 263

13.7 Chairperson and Deputy Chairperson of Committees

- (1) The Chairperson of each Committee of the Council must be:
 - (a) the Lord Mayor; or
 - (b) if the Lord 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) 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.

Reg 267

13.8 Voting procedure in Committees

- (1) Subject to Subclause (3), each Committee of the Council may regulate its own procedure.
- (2) Without limiting Subclause (1), a Committee of the Council (consisting of Councillors only) 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. Without such a decision of the Committee, a casting vote cannot be exercised by the Chairperson.
- (3) Voting at a Committee meeting is to be by Open means (such as on the voices, by show of hands or such other electronic means as determined by Council).
- (4) For all motions and recommendations on a Committee Agenda and Business Paper the names of those Councillors who supported the motion and those who opposed (or are taken to have opposed) the motion will be recorded.

Reg 265

This Clause extends to a Committee meeting or part of a Committee meeting that is closed to the public.

Council Protocol and LGA Sec 375A
Council Protocol

13.9 Absence from Committee meetings

- (1) A member (other than the Lord 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 (beginning 1 July and ending 30 June) without having given to the Committee acceptable reasons for the member's absences.
- (2) Subclause (1) does not apply if all of the members of the Council are members of the Committee.

Reg 268

13.10 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 Council.

Reg 269

13.11 Disorder in Committee meetings

The provisions of this Code 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

Reg 270

13.12 Certain persons may be expelled from 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 Clause 10.1 of this Code, any person who is not a Councillor may be expelled from the meeting as provided by Clause 2.7 (2) of this Code.
- (2) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer or any person authorised for the purpose by the Council, Committee or person presiding, may, by using only such force as is necessary remove the first mentioned person from that place and, if necessary, restrain that person from re-entering that place.

Reg 271

13.13 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.

Reg 266

- (d) the names of the Councillors who supported the motion and those who opposed (or are taken to have opposed) the motion.

Council Protocol

- (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.

Reg 266

- (3) There is nothing to stop a Council from considering and adopting the recommendations of a Committee before the Committee's minutes are confirmed.

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PART 14 – MINUTES AND ACCESS TO INFORMATION

14.1 Minutes of Council meetings

- (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 (being the next ordinary meeting of the Council), be signed by the person presiding at that subsequent meeting.

LGA Sec 375

14.2 Matters to be included in the minutes of Council meetings

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 the seconder of each motion or amendment,
- (c) whether the motion or amendment is passed or lost.

Reg 254 (a)-(c)

- (d) the circumstances and reasons relating to the absence of a quorum together with the names of the councillors present.

Reg 233 (3)

- (e) the dissenting vote of a councillor, if requested.

Reg 251 (2)

- (f) the names of the councillors who supported the motion and those who opposed (or are taken to have opposed) the motion.

Council Protocol and Reg 251 (4)

- (g) the grounds for closing part of a meeting to the public.

LGA Sec10D

- (h) the report of a council committee leading to a rescission or alteration motion.

LGA Sec 372 (6)

- (i) the disclosure to a meeting by a councillor of a pecuniary interest.

LGA Sec 453

- (j) a report of the proceedings of the committee of the whole, including any recommendations of the committee.

Reg 259 (3)

- (k) sufficient detail to indicate the nature of any resolution made in a closed part of a meeting
DLG Prac Note 16/2009 – Pg 45

14.3 Recording of Council and Committee meetings

- (1) A person may 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 Clause 2.7 (2) of this Code, be expelled from a meeting of a Council or a Committee of a Council by the Chairperson 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 that person from re-entering that place.
- (4) In this Clause, recording includes audio or visual recording.
Reg 273
- (5) Digital audio recordings of Council and Committee meetings may be made by Council staff for the purpose of:
 - (a) assisting in the preparation of minutes, and
 - (b) verifying the accuracy of minutes prior to their confirmation
- (6) Audio recordings will be stored until the minutes from the meeting to which they relate have been confirmed by Council as required by State Records General Authority 39 (GA39).
- (7) Access to the audio recordings will only be provided for the purpose of:
 - (a) preparing and verifying the accuracy of the minutes of meetings, and
 - (b) complying with court orders, warrants, subpoenas or legislation where the recordings are still in existence.

Council Protocol

14.4 Inspection of the minutes of a Council or Committee meeting

- (1) An inspection of the minutes of a Council or Committee of a Council is to be carried out under the supervision of the General Manager or an employee of the Council designated by the General Manager to supervise inspections of those minutes.
- (2) The General Manager must ensure that the minutes of the Council and any minutes of a Committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

Reg 272

Note – The Government Information (Public Access) Act 2009 confers a right (restricted in the case of closed parts of meetings) to inspect the minutes of a meeting of Council or Committee of a Council.

The Minutes of a meeting of Council or a Committee of Council (in which all members are Councillors) will be made available on Council's website at www.wollongong.nsw.gov.au as soon as practicable.

14.5 Disclosure and misuse of information

- 1) A person must not disclose any information obtained in connection with the administration or execution of the Local Government Act unless that disclosure is made:
 - (a) with the consent of the person from whom the information was obtained; or
 - (b) in connection with the administration or execution of the Local Government Act; or
 - (c) for the purposes of any legal proceedings arising out of the Local Government Act or of any report of any such proceedings; or
 - (d) in accordance with a requirement imposed under the Ombudsman Act, 1974 or the Government Information (Public Access) Act 2009, or
 - (e) with other lawful excuse.

LGA Sec 664
- 2) In particular, if part of a meeting of a Council or a Committee of a Council is closed to the public in accordance with Part 10 of this Code, 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 except where:
 - (a) the report is a report of a Committee of Council which has been presented to the Council; or
 - (b) any agenda, resolution or recommendation of a meeting that a person is entitled to inspect in accordance with Government Information (Public Access) Act 2009; or
 - (c) disclosure is made in circumstances prescribed by the Regulations. This includes 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

LGA Sec 664
Reg 412
- 3) A person acting in the administration or execution of the Local Government 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.
- 4) A person acting in the administration or execution of the Local Government 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.

LGA Sec 664

PART 15 – CUSTODY AND USE OF COUNCIL SEAL

- (1) The seal of Council must be kept by the Lord Mayor or the General Manager, as the Council determines.
- (2) The seal of a Council may be affixed to a document only in the presence of:
 - (a) the Lord Mayor and the General Manager; or
 - (b) at least 1 Councillor (other than the Lord Mayor) and the General Manager, or
 - (c) the Lord Mayor and at least 1 other Councillor, or
 - (d) at least 2 Councillors other than the Lord Mayor

- (3) The affixing of a Council seal to a document has no effect unless the persons who were present when the seal was affixed (being persons referred to in Subclause 2) attest by their signatures that the seal was affixed in their presence.
- (4) The seal of a Council must not be affixed to a document unless -
 - (a) the document relates to the business of Council, and
 - (b) Council has resolved (by resolution specifically referring to the document) that the seal be so affixed.
- (5) A document which is in the nature of a reference or certificate of service for an employee of the Council is a document which does not relate to the business of Council and is not entitled to have the seal of a Council affixed.

Reg 400

SUMMARY SHEET

RESPONSIBLE DIVISION	Governance and Information
DATE ADOPTED ON BEHALF OF COUNCIL	26 July 2011
DATE OF PREVIOUS ADOPTION(S)	25 March 2008 26 June 2006 9 February 1998 14 April 1998 28 September 1998 1 September 1999 17 April 2000 25 February 2002 27 October 2003 9 May 2006 26 June 2006
DATE FOR REVIEW	31 July 2012
PREPARED BY	Senior Governance Project Officer
AUTHORISED BY	Manager Governance and Information