



Code **Approved**

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Responsible Division: Executive

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1 PRELIMINARY

1.1 Citation

This Code may be cited as the Port Macquarie-Hastings Council Code of Meeting Practice.

1.2 Definitions

In this Code:

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

Chairperson,

(a) in relation to a meeting of the Council - means the person presiding at the meeting as provided by clause 3.1 of this Code; and

(b) in relation to a meeting of a Committee - means the person presiding at the meeting as provided by clause 5.7 of this Code;

committee means a Committee established under clause 5.2 or the Council when it has resolved itself into a Committee of the Whole (Meeting Closed to the Public);

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

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

(a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;

(b) the spouse or the de facto partner of the person or of a person referred to in paragraph (a).

the Act means the Local Government Act 1993;

the Code means the Port Macquarie-Hastings Council Code of Meeting Practice;

the Regulation means the Local Government (Meetings) Regulation 1999.

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

1.3 Act and Regulation

This Code is made pursuant to Section 360(2) of the Act and it incorporates relevant provisions of the Regulation and the Act.

In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.

2 CONVENING OF, AND ATTENDANCE AT, COUNCIL MEETINGS

2.1 How Often Does the Council Meet?

The Council shall, by resolution, set the frequency, time, date and place of ordinary Meetings of the Council. (Sec 365)

2.2 Extra-Ordinary Meetings

The Mayor may call Extra-Ordinary Meetings of the Council.

If the Mayor receives a request in writing signed by at least two (2) Councillors, the Mayor must call an Extra-Ordinary meeting of the Council to be held as soon as practicable but, in any event, within 10 working days after the receipt of the request. (Sec 366)

For the purpose of this subsection, a working day is a day that is not a Saturday, Sunday or Public Holiday.

2.3 Notice of Meetings

The General Manager of the Council must send to each Councillor, at least 3 days before each meeting of the Council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.

Notice of less than 3 days may be given of an Extra-Ordinary meeting called in an emergency, but in no case shall notice of less than one day be given. (Sec 367)

2.4 What is the Quorum of a Meeting?

The Quorum for a meeting of the Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office. (Sec 368)

2.5 What happens when a Quorum is not Present?

A meeting of the Council must be adjourned if a Quorum is not present: R5(1)

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

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

- 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. R5(2)

The General Manager must record in the Council's Minutes the circumstances relating to the absence of a Quorum (including the reasons for the absence of a Quorum) at or arising during a Meeting of the Council, together with the names of the Councillors present. (Sec5(3)) R1

2.6 Presence at Council Meetings

A Councillor cannot participate in a Meeting of the Council unless personally present at the Meeting. (R7)

2.7 General Manager's Attendance at Meetings

The General Manager is entitled to attend, but not to vote at, a Meeting of the Council or a Meeting of a Committee of the Council of which all of the members are Councillors. (S376(1))

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. (S376(2))

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 employment of the General Manager. (S376(3))

3 PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

3.1 Chairperson of Council Meetings

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

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

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.

The election must be conducted:

- (a) by the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election; or
- (b) if neither of them is present at the meeting or there is no General Manager or designated employee - by the person who called the meeting or a person acting on his or her behalf. (R8)

3.2 Chairperson to have Precedence

When the Chairperson rises or speaks during a meeting of the Council:

- (a) any Councillor then speaking or seeking to speak must immediately resume his or her seat; and
- (b) every Councillor present must be silent to enable the Chairperson to be heard without interruption. (R9)

3.3 Chairperson's Duty with Respect to Motions

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

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

Any motion, amendment or other matter that the Chairperson has ruled out of order is taken to have been rejected. (R10)

3.4 Minutes

The Council must ensure that full and accurate Minutes are kept of proceedings of the Council.

The General Manager must ensure that the following matters are recorded in the Council's Minutes:

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

Note: Section 375(1) of the Act requires a Council to ensure that full and accurate Minutes are kept of the proceedings of a Meeting of the Council (other provisions of this Regulation and of the Act require particular matters to be recorded in Council's Minutes).

The correctness of the Minutes of every preceding meeting, including Extra-Ordinary Meeting, not previously confirmed must be dealt with at every Ordinary Meeting of the Council, in order that such Minutes may be confirmed.

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

Minutes may be confirmed at an Extra-Ordinary Meeting of the Council.

The Minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent Meeting.

3.5 Order of Business

At a Meeting of the Council (other than an Extra-Ordinary Meeting), the general order of business is (except as provided by this Code) such as the Council has fixed by resolution passed at any previous Meeting or, if no such resolution has been passed, in accordance with the Schedule. R12(1)

The order of business fixed under this clause may be altered if a motion to

that effect which can be moved without notice is carried. Despite Clause 3.18, only the mover of such a motion may speak to the motion before it is put. R12(2))

3.6 Agendas for Council Meetings

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

- (a) all matters to be dealt with arising out of the proceedings of former Meetings of the Council; and
- (b) if the Mayor (or the Deputy Mayor if acting for the Mayor) is the Chairperson - any business that the Chairperson may decide to put before the meeting without notice; and
- (c) any business of which due notice has been given. R13(1)

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. R13(2)

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. R13(3)

The General Manager must ensure that the details of any item of business to which Section 9(2A) of the Act applies are included in a Business Paper for the Meeting concerned. R13(4)

Nothing in this clause limits the powers of the Chairperson under Clause 3.9.

3.7 Giving Notice of Business

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

- (a) unless a Councillor has given notice of the business in writing by noon of the Wednesday immediately preceding the Meeting; and
- (b) unless notice of business has been sent to the Councillors at least 3 days before the meeting, or, in the event of an Extra-Ordinary Meeting called in an emergency, at least one day. R14(1)

Regulation R14(1) does not apply to:

- (a) reports of Committees of the Council;
- (b) reports from officers which in the opinion of the Chairperson or the General Manager are urgent; and
- (c) reports from officers placed on the Agenda pursuant to a decision of a Committee that additional information be provided to the Council in relation to a matter before the Committee. R14(2)

Despite Regulation 14(1), business may be transacted at a Meeting of the Council when due notice of the business has not been given to Councillors, but only if:

- (a) a motion is passed to have the business transacted at the Meeting; and
- (b) the motion is one that can be moved without notice; and
- (c) the business proposed to be brought forward is ruled by the Chairperson to be of great urgency. R14(3)

Despite Clause 3.18, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put. R14(4)

3.8 Agenda for Extra-Ordinary Meeting

The General Manager must ensure that the Agenda for an Extra-Ordinary Meeting of the Council deals only with the matters stated in the notice of the meeting. R15

3.9 Mayoral Minutes

If the Mayor (or the Deputy Mayor, if acting for the Mayor) is the Chairperson at a Meeting of a Council, the Chairperson is, by minute signed by the Chairperson, entitled to put to the meeting any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge. R16(1)

Such a minute, when put to the Meeting, takes precedence over all business on the Council's Agenda for the Meeting. The Chairperson (but only if the Chairperson is the Mayor, or the Deputy Mayor, if acting for the Mayor) may move the adoption of the minute without the motion being seconded. R16(2)

A recommendation made in a minute of the Chairperson (being the Mayor, or Deputy Mayor, if acting for the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council. R16(3)

3.10 Report of a Departmental Representative to be tabled at Council Meeting

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

- (a) is laid on the table at that Meeting; and
- (b) is subsequently available for the information of Councillors at all reasonable times. R17

3.11 Notice of Motion - Absence of Mover

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

- (a) any other Councillor may move the motion at the Meeting; or
- (b) the Chairperson may defer the motion until the next Meeting of the Council at which the motion can be considered. R18

3.12 Motions to be Seconded

A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the Chairperson to speak to the motion before calling for the motion to be seconded. This clause is subject to Clause 3.9 - Paragraph 2 and Clause 3.18 - Paragraph 5.

The seconder of a motion or of an amendment may reserve the right to speak later in the debate. R19

3.13 How Subsequent Amendments may be Moved

If an amendment has been accepted or rejected, a further amendment can be moved to the motion in its original or amended form (as the case may be), and so on, but no more than one motion and one proposed amendment can be before the Council at any one time. R20

It is permissible to debate the motion and an amendment concurrently.

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

3.14 Motions of Dissent

A Councillor can, without notice, move to dissent from the ruling of the Chairperson on a point of order. If that happens, the Chairperson must

suspend the business before the Meeting until a decision is made on the motion of dissent. R21(1)

If a motion of dissent is carried, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business to the Agenda and proceed with it in due course. R21(2)

Despite Clause 3.18, 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. R21(3)

3.15 Petitions may be Presented to the Council

A Councillor may present a petition to the Council.

The Chairperson must not permit discussion on the petition, but may request that the matter be listed for consideration at the next Meeting of Council.

3.16 Questions may be put to Councillors and Council Employees

A Councillor:

- (a) may, through the Chairperson, put a question to another Councillor; and
- (b) may, through the Chairperson and the General Manager, put a question to a Council employee.

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

Any such question shall be in writing and must be put directly, succinctly, and without argument.

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.

Nothing in this clause affects questions being asked, with the leave of the Chairperson, relevant to any matter under discussion at a meeting. R22

3.17 Mode of Address

Councillors shall at all times address other Councillors by their official designation, as Mayor or Councillor, as the case may be; and with the exception of the Chairperson, or any Councillor prevented by physical infirmity, shall stand when speaking.

3.18 Limitation as to Number of Speeches

A Councillor who, during a debate at a meeting of the Council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment. R23(1)

A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it. R23(2)

A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than 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. R23(3)

Despite Subclauses (1) and (2), if at least 2 Councillors have spoken in favour of a motion or an amendment and at least 2 Councillors have spoken against the motion or amendment, any Councillor may move that the question be now put. R23(4)

The Chairperson must immediately put to the vote a motion that the question be now put without the motion being seconded and without debate. R23(5)

If a motion that the question be now put is passed, the Chairperson must, after the mover of the motion has exercised his or her right of reply under Subclause Regulation 22(1), immediately put the question to the vote without further debate. R23(6)

If a motion that the question be now put is rejected, the Chairperson must resume the debate on the original motion or amendment. R23(7)

3.19 Motions Put Without Debate

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

3.20 Voting at Council Meetings

Each Councillor is entitled to one (1) vote.

However, the Chairperson has, in the event of an equality of votes, a second or casting vote.

A Councillor who is present at a meeting of the Council but who fails to vote on a motion put to the meeting is taken to have voted against the motion. This sub-clause does not apply to a Councillor who does not vote because he or she has a pecuniary interest in the subject matter of the motion.

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

The decision of the Chairperson as to the result of a vote is final, unless:

- (a) in the case where a vote has been declared on the voices, a Councillor immediately requests a show of hands; or
- (b) the decision is immediately challenged and not fewer than two (2) Councillors rise and demand a division.

When a division on a motion is demanded, the Chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's Minutes. R24

3.21 What Constitutes a Decision of the Council?

A decision supported by a majority of the votes at a Meeting of the Council at which a quorum is present is a decision of the Council. (Sec 371)

3.22 Recommittal of Resolutions

A resolution passed by Council shall not be recommitted for further consideration by Council, except where the procedural steps outlined in Clause 3.7 have been followed.

3.23 Rescinding or Altering Resolutions

A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with Clause 3.7.

Where a Committee or staff member has determined any matter under delegated authority from Council, any rescission motion relating to that matter shall only be dealt with by Council in accordance with this Code.

If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice must also be given of the proposed further motion.

If a notice of motion to rescind or alter a resolution is given:

- (a) at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission or alteration has been dealt with; or
- (b) at any time after the meeting at which the resolution is carried, no further action to carry the resolution into effect may be taken after receipt of the notice of motion until the motion of rescission or alteration has been dealt with.

In the case of a motion of alteration, the above applies only to the extent that the resolution of Council would be affected by the motion of alteration, if it is carried.

If a motion has been negated by the Council, a motion having the same effect must not be considered unless notice of it has duly been given in accordance with Clause 3.7.

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 at least 3 Councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be.

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

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

The provisions of this clause concerning negated motions do not apply to motions of adjournment. (Sec 372)

3.24 Motions of Adjournment

Debate shall not be permitted on any motion for adjournment of a meeting of the Council.

If a motion for adjournment is negatived, the business of the meeting shall proceed, and it shall not be in order for any Councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being negatived.

A motion for adjournment may specify the time, date and place of the adjourned meeting; however, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the Chairperson shall make a determination with respect to whichever of these has not been specified.

3.25 Addressing Council on an Agenda Item

That authority to grant permission to address Council on an Agenda Item be vested in:

- (a) The Mayor - for permission to address Council; or
- (b) The majority of the Councillors


That unless exceptional circumstances exist:

- (a) That Council permit only two (2) speakers "For" and two (2) speakers "Against" any one Agenda item. If there are more than two (2) speakers "For" and "Against", at the Meeting the Mayor will ask those speakers to determine who will address Council.
- (b) That speakers be limited to 5 Minutes to address Council and this time limit be strictly reinforced by the Mayor.
- (c) That each question put to invited speakers be limited to 30 seconds.
- (d) That answers be limited to 2 minutes.
- (e) That where there has been an on-site inspection of a proposed development or matter and the applicant or objector has formally addressed such inspection, permission to address Council or a Committee not be granted.

That the closing time for applications to address Council on an Agenda Item is 4.30pm on the day before the Council Meeting, with speakers required to complete the *"Request to Speak at Ordinary Council Meeting"* (Form AI/OCM3)

That where speakers have written information, drawings or photos to support their address and wish to have this information distributed to Councillors, two (2) copies are to be provided to the Manager Governance & Executive Services prior to the commencement of the Council Meeting.

That where speakers wish to make an audio visual presentation, a copy is to be provided to the Manager Governance & Executive Services by 12 noon on the day of the Council Meeting.

Speakers must agree to strictly adhere to Council's Procedure for Addressing Meetings. This procedure is linked here: 

That where possible, Councillors be provided prior to the commencement of the Council Meeting, a schedule of proposed speakers for the Meeting.

3.26 Addressing Council in the Public Forum

Council will hold a "Public Forum Session" during the Ordinary Council Meeting, commencing at 5.30 pm.

The Public Forum is to enable residents to raise Council related issues, which are not included on the Council Meeting Agenda.

It should be noted that proposed or current development and rezoning applications and related matters will **NOT** be considered in the Public Forum.

A maximum of eight (8) Public Forum speakers can address any one Council Meeting and each speaker will be given a maximum of 5 Minutes to address Council.

The closing time for applications to address Council in the Public Forum of the Council Meeting is 4.30pm on the day before the Council Meeting, with speakers required to complete the "*Request to Speak in the Public Forum of a Council Meeting*" (Form PF/OCM 1)

Where speakers have written information, drawings or photos to support their address and wish to have this information distributed to Councillors, two (2) copies are to be provided to the Manager Governance & Executive Services prior to the commencement of the Council Meeting.

Where speakers wish to make an audio visual presentation, a copy is to be provided to the Manager Governance & Executive Services by 12 noon on the day of the Council Meeting.

Speakers must agree to strictly adhere to Council's Procedure for Addressing

Meetings. This procedure is linked here: 

Council will not determine matters raised in the Public Forum session, however may resolve to call for a further report, when appropriate.

Speakers will be allowed to address Council in the Public Forum on the same issue no more than three (3) times in each calendar year. (Representatives of incorporated community groups may be exempted from this restriction).

4 KEEPING ORDER AT MEETINGS

4.1 Questions of Order

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. R28(1)

A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson to the matter. R28(2)

The Chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council. R28(3)

The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed. R28(4)

4.2 Acts of Disorder

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, any regulation in force under the Act or this Code; or
- (b) assaults or threatens to assault another Councillor, staff member 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, staff member or any other person; 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; R29(1)

The Chairperson may require a Councillor:

- (a) to apologise for an act of disorder referred to in Sub-Clause 28(1)(a) or (b); or
- (b) to withdraw a motion or an amendment referred to in Sub-Clause 28(1)(c) and, where appropriate, to apologise without reservation; or
- (c) to retract and apologise for an act of disorder referred to in Sub-Clause 28(1)(d) or (e).

The Council or Committee of the Council may, by resolution, expel from a meeting a Councillor who fails to comply with a requirement made under Sub-Clause 28(2). The expulsion of a Councillor under this subclause does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

4.3 How Disorder at a Meeting may be Dealt With

If disorder occurs at a meeting of the Council or Committee of the Council, the Chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of Councillors. R30(1)

The Council or Committee may, by resolution, expel a member of the public from a Council or Committee meeting on the ground that the member is engaging in or has, at the meeting, engaged in disorderly conduct. R30(2)

4.4 Power to Remove Persons from Meeting after Expulsion Resolution

If a meeting of the Council or Committee of the Council resolves to expel from the meeting a Councillor for failing to comply with a requirement made under clause 4.1 or a member of the public for disorderly conduct and the Councillor or member of the public fails to leave the meeting immediately after the resolution is passed, a police officer, or any person authorised by the

Council or Committee for the purpose, may remove the person from the meeting and, if necessary, restrain the person from re-entering the place where the meeting is being held. R31

5 COUNCIL COMMITTEES

5.1 Committee of the Whole (Meeting Closed to the Public)

The Council may resolve itself into a Committee of the Whole (Meeting Closed to the Public) to consider any matter before the Council.

All the provisions of this Code relating to Meetings of the Council, so far as they are applicable, extend to and govern the proceedings of a Committee of the Whole (Meeting Closed to the Public), except the provisions:

- (a) limiting the number and duration of speeches; and
- (b) requiring Councillors to stand when speaking. R32(1)

The General Manager is responsible for reporting to the Council proceedings in a Committee of the Whole (Meeting Closed to the Public). It is not necessary to report the proceedings in full but any recommendations of the Committee must be reported. R32(2)

The Council must ensure that a report of the proceedings is recorded in the Council's Minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed. R32(3)

5.2 Council May Appoint Committees

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

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

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. R33

5.3 Functions of Committees

The Council must specify the functions and authorities of each of its Committees when the Committee is established or elected, but may from time

to time amend those functions and authorities. R34

5.4 Notice of Committee Meetings to be Given

The General Manager of the Council must send to each Councillor, at least three (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.

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

The provisions of clause 3.6 apply to the Agendas of Committee Meetings in the same manner as they apply to the Agendas of Meetings of the Council. R35

5.5 Non-Members Entitled to Attend Committee Meetings

A Councillor who is not a member of a Committee of the Council is entitled to attend, and to speak at, a meeting of the Committee. R36

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.

Representations by Members of the Public R37

5.6 Procedure in Committees

Each Committee of the Council may regulate its own procedure. R38(1)

Without limiting Sub-Clause R38(1), a Committee of the Council may decide that, whenever the voting on a motion put to a meeting of the Committee is equal, the Chairperson of the Committee is to have a casting vote as well as an original vote. R38(2)

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

5.7 Chairperson and Deputy Chairperson of Committees

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

- (a) the Mayor; or
- (b) if the Mayor does not wish to be the Chairperson of a Committee - a member of the Committee elected by the Council; or
- (c) if the Council does not elect such a member - a member of the Committee elected by the Committee. R40(1)

The 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. R40(2)

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. R40(3)

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. R40(4)

5.8 Absence from Committee Meetings

A member ceases to be a member of a Committee if the member (other than the Mayor):

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

This Regulation does not apply if all of the members of the Council are members of the Committee. R41

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

5.9 Reports of Committees

If in a report of a Committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation. R42(1)

The recommendations of a Committee of the Council are, so far as adopted by the Council, resolutions of the Council. R42(2)

A Councillor may, up to 12.00 noon on the day of the Committee Meeting, request, in writing, that the decision of the Committee on any specific item be referred to Council as a recommendation for adoption. Such written must be signed by two (2) Councillors or signed by the Councillor only, provided it has the concurrence of either the relevant Committee Chairperson or Mayor.

5.10 Disorder in Committee Meetings

The provisions of the Act, the Regulation and 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. R43

5.11 Committee may Expel Certain Persons from its Meetings

If a meeting or part of a meeting of a Committee of the Council is closed to the public in accordance with clause 7.4, the Committee may, by resolution, expel from the place where the meeting is being held any person who is not a Councillor. R44(1)

If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from, and, if necessary, restrain the person from re-entering, that place. R44(2)

6 PECUNIARY INTERESTS (S.442)

6.1 Pecuniary Interest

For the purposes of this Part, a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated as provided in clause 6.2.

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 a matter or if the interest is of a kind specified in clause 6.3.

6.2 Persons who have a Pecuniary Interest (S.443)

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) another person with whom the person is associated.

A person is taken to have a pecuniary interest in a matter if:

- (a) the person's spouse or de facto partner or a relative of the person has a pecuniary interest in the matter; or
- (b) the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

However, a person is not taken to have a pecuniary interest in a matter as referred above:

- (a) if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body; or
- (b) just because the person is a member of, or employed by, a Council or a statutory body or is a member of a company or other body that has a pecuniary interest in the matter if the person has no beneficial interest in any shares of the company or body.

6.3 Interests that Need not be Declared (S.448)

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

- (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 another person with whom the person is associated as provided in [section 443](#) has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or
 - (ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i),

if the person or the other person with whom the person is associated would by reason of the proprietary interest have a pecuniary interest in the proposal,

- (h) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company,
- (i) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership,
- (j) an interest of a person arising from the making by the council of a

contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:

- (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation,
- (ii) security for damage to footpaths or roads,
- (iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract,
- (k) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor),
- (l) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under [section 252](#),
- (m) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor,
- (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,
- (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or member of a council committee,
- (p) an interest arising from appointment of a councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

6.4 Disclosure and Participation in Meetings

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 interest and the nature of the interest to the meeting as soon as practicable. S451(1)

If the pecuniary interest is disclosed in a matter being considered by the Council, then the Councillor must retire from the meeting room whilst the matter is being considered.

A general notice of disclosure made pursuant to section 454 of the Act fulfils the above requirement.

The Councillor or member must not take part in the consideration or discussion of the matter. S451(2)

The Councillor or member must not vote on any question relating to the matter. S451(3)

A person who, at the request or with the consent of the Council or a Council Committee, gives advice on any matter at any meeting of the Council or Committee must disclose any pecuniary interest the person has in the matter to the meeting at the time the advice is given. S447 & 456

A person does not breach this clause 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. S451

6.5 Disclosures to be Recorded S453

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

6.6 Powers of the Council in Relation to Meetings S455

A Councillor or member of a Council Committee must not, if the Council or Committee so resolves, attend a meeting of the Council or Committee while it has under consideration a matter in which the Councillor or member has an interest required to be disclosed under this Part.

7 PUBLIC

7.1 Public Notice of Meetings

The Council must give notice to the public of the times, dates and places of its Meetings and Meetings of those of its Committees of which all the members are Councillors. (Sec 9(2))

A Notice of a Meeting of a Council or of a Committee must be published in a newspaper circulating in the area before the meeting takes place.

The Notice must specify the time and place of the Meeting.

Notice of more than one Meeting may be given in the same Notice.

This clause does not apply to an Extra-Ordinary Meeting of a Council or Committee. R5

7.2 Agendas to be Available to the Public

The Council and each such Committee must have available for the public at its offices and at each meeting copies (for inspection and taking away by persons) of the Agenda for the meeting. This requirement does not apply to an Agenda for a matter that, in the opinion of the General Manager, is likely to be considered when the meeting is closed to the press and public. (Sec9(2))

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

The copies are to be available free of charge.

7.3 Who is Entitled to Attend Meetings?

The Public is entitled to attend a meeting of the Council and those of its Committees of which all its members are Councillors, except as provided by this clause. (Sec 10)

7.4 Closure of Meetings to the Public (Confidential Session)

The Council or such a Committee may close to the public only so much of its meeting as comprises the receipt or discussion of any of the following: (Sec 10(2))

- (a) personnel matters concerning particular individuals;
- (b) the personal hardship of any resident or ratepayer;
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business;
- (d)
 - commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it;
 - commercial information of a confidential nature that would, if

- disclosed, confer a commercial advantage on a competitor of the Council;
 - commercial information of a confidential nature that would, if disclosed, 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 grounds of legal professional privilege.

The grounds on which a meeting is closed must be specified in the decision to close the meeting and recorded in the minutes of the meeting. In particular it must specify:

- the relevant provision of Section 10A(2) of the Act under which the part is being closed;
- the matter to be discussed during the closed part of the meeting; and
- the reasons why it is being closed, including an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest. (Sec 10(3))

A person (whether a Councillor or another person) is not entitled to be present at a meeting if expelled from the meeting by a resolution of the meeting. In particular, it must specify:

- The relevant provision of Section 10A(2) of the Act under which the part is being closed;
- The matters to be discussed during the closed part of the meeting; and
- The reasons why it is being closed, including an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Nothing in this clause prevents any limitation being placed on the number of members of the public admitted to a meeting of the Council or a Committee of the Council, provided such limitation is for reason of safety or security.

7.5 Representations by Members of the Public - Closure of Part of Meeting

A member of the public may make a representation to Council as to whether a part of the Meeting should be closed to the public. It will be at Council's discretion whether or not to hear representations relating to whether a Meeting

should be closed to the public.

A representation at a Council or Committee Meeting by a member of the public as to whether a part of the Meeting should be closed to the public can only be made for a fixed period immediately after the motion to close the part of the Meeting is moved and seconded. R37

- After a motion to close part of a meeting to the public has been moved and seconded, the Chairperson shall ask the General Manager if there are any written representations from the public on the proposed closure;
- The General Manager shall read out any written representations;
- The chairperson shall ask if any persons wish to make verbal representations;
- The opportunity to speak shall be given to:
 - Each person alternating on a “for” and “against” basis or where there are more than four (4) persons wishing to speak representative persons chosen by the public gallery with a maximum of two (2) persons speaking for and two (2) persons speaking against the motion;
 - Each person addressing the Council may be allowed to speak for the maximum period of 2 minutes per person;
 - The Council or Committee may then close the meeting under Section 10A(3) to consider whether part of the meeting should be closed to the public to consider the subject item.

7.6 Closing parts of Meeting in Urgent Cases

A Council or Committee may close part of a meeting to the public without prior notice where it becomes apparent during the course of debate that a matter should be considered in a closed meeting, and the matter is decided, by a resolution of the Council or Committee, to be too urgent to be deferred. The resolution to close the meeting should not be put to the vote until the public has been allowed to make verbal representations. S10A(4)

7.7 Meetings Should Only Be Closed to Consider Confidential Parts of Items

A Council or Committee may close part of a meeting only for such portion of the debate on an item as is necessary to preserve confidentiality, privilege or security. S10B

7.8 Public Access to Correspondence and Reports

The Council and a Committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the

meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.

This clause does not apply if the correspondence or reports:

- (a) relate to a matter that was received or discussed; or
- (b) were laid on the table at, or submitted to, the meeting, when the meeting was closed to the public. (Sec 11)

8 MISCELLANEOUS

8.1 Information Relating to Proceedings at Closed Meetings not to be Disclosed

If a meeting or part of a meeting of the Council or a Committee of the Council is closed to the public in accordance with clause 7.4, a person must not, without the authority of the Council or the Committee, disclose, otherwise than to the Council or to a Councillor, information with respect to the discussion at, or the business of, the meeting. S664(1A)

This clause does not apply:

- (a) to the report of a Committee of the Council when presented to the Council; or
- (b) to the disclosure of information by a Councillor or employee of the Council in the course of the Councillor's or employee's duties. S664(1B)

8.2 Inspection of the Minutes of the Council or a Committee

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

The General Manager must ensure that the minutes of the Council and any minutes of a Committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them. R40

8.3 Tape Recording of Meeting of the Council or a Committee Prohibited Without Permission

A person may use a tape recorder to record the proceedings of a meeting of

the Council or a Committee of a Council only with the authority of the Council or Committee.

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

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

In this clause, **tape recorder** includes a video camera and any electronic device capable of recording speech, whether a magnetic tape is used to record or not. R42

8.4 Certain Circumstances do not Invalidate Council Decisions

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

- (a) a vacancy in a civic office; or
- (b) a failure to give notice of the meeting to any Councillor or a Committee member; or
- (c) any defect in the election or appointment of a Councillor or a Committee member; or
- (d) a failure of a Councillor or a Committee member to disclose a pecuniary interest at a Council or a Committee meeting; or
- (e) a failure to comply with this Code. S374

8.5 Council Seal

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

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

- (a) the Mayor and the General Manager; or
- (b) at least one (1) Councillor (other than the Mayor) and the General Manager; or
- (c) the Mayor and at least one (1) other Councillor; or
- (d) at least two (2) Councillors other than the Mayor.

The affixing of a Council Seal to a document has no effect unless the persons who were present when the Seal was affixed attest by their signatures that the

Seal was affixed in their presence.

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

A document in the nature of a reference or certificate of service for an employee of the Council does not relate to the business of the Council. R43

8.6 Amendment of Code

This Code may be amended only in accordance with the provisions of Division 1 of Part 2 of Chapter 12 of the Act.

SCHEDULE - GENERAL ORDER OF BUSINESS

- 5.30pm Open Council Meeting commences
1. Apologies
 2. Confirmation of Minutes of previous meeting.
 3. Disclosures of Interest.
 4. Local Government Prayer.
 5. Public Forum.
 6. Administrator's Minute.
 7. Consideration of all agenda items for which there are requests from the public to address Council.
 8. Consideration of all agenda items for which there were no requests from the public to address Council.
 9. Questions without notice.
 10. Notice of intention to deal with matters in closed session.
 11. Consideration of all confidential agenda items which are in closed session.
 12. Report of resolutions passed in closed session.



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